

Before the

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

In the Matter of the Application of
Verizon New Jersey, Inc. For Approval (i)
of a New Plan for an Alternative Form of
Regulation and (ii) to Reclassify Multi-
Line Rate Regulated Business Service
as Competitive Services, and
Compliance Filing

Docket No. TO01020095

Direct Testimony of

LEE L. SELWYN

witness for the

State of New Jersey
Division of the Ratepayer Advocate

May 15, 2001

ALLEGEDLY PROPRIETARY DATA
HAS BEEN DELETED

TABLE OF CONTENTS

INTRODUCTION	1
Qualifications	1
Assignment	2
Summary of Testimony	3
 ALTERNATIVE REGULATION PLAN PARAMETERS	 7
VNJ’s revised plan for alternative regulation (PAR-2) contains many of the same deficiencies as its previous “Competitive Telecommunications Plan,” and like the Company’s prior attempt, fails to satisfy the statutory goals and requirements as set forth in the 1992 Telecommunications Act.	7
The various efficiency and productivity incentives contained in alternative regulation plans are intended to benefit consumers of the utility’s noncompetitive services in the form of lower rates, improved service quality, and increased availability of advanced services, and must not be viewed solely as a device to permit the utility to increase its earnings beyond the level that would be permitted under traditional “cost-plus” rate of return regulation.	10
 VERIZON NEW JERSEY’S PROPOSED PLAN	 20
As proposed, VNJ’s PAR-2 would make far-reaching and essentially <i>permanent</i> changes in the manner in which the Company is regulated – or <i>not regulated</i> – in New Jersey.	20
Verizon New Jersey’s PAR-2 eliminates many key elements and protections that should be present in a robust alternative regulation plan.	24
Verizon New Jersey’s proposal for pricing flexibility must be closely scrutinized.	32

ALLEGEDLY PROPRIETARY DATA
HAS BEEN DELETED

Verizon New Jersey has failed to demonstrate that the proposed plan complies with the eight specific statutory criteria as set out in NJSA 48:2-21.18. 38

SUBSIDY ANALYSIS FOR RESIDENTIAL SERVICES 46

Verizon New Jersey’s residential services generate substantial revenues in excess of costs, and are actually a source of subsidy to other VNJ services. 46

VNJ has failed to include the costs and revenues for switched access and non-published listings in its subsidy calculation for residential basic service. 54

The cost/revenue differential for residential services greatly exceeds that of business and Centrex services. 60

The excessive revenues being generated by residential service supports the notion that a decrease in revenues would not be detrimental to the Company. 61

THE RATEPAYER ADVOCATE’S PROPOSED PLAN 63

Verizon New Jersey must continue to operate under some form of rate regulation until the New Jersey local telecommunications market becomes fully competitive. 63

Price adjustments and sharing linked to degree of competition. 69

The Ratepayer Advocate’s pricing flexibility plan correctly places the burden of proof upon Verizon, rather than the Board, in assessing the validity of the Company’s filings. 71

A new sharing formula should be instituted so as to appropriately flow economic benefits to ratepayers. 72

The Ratepayer Advocate plan will ensure just and reasonable rates to consumers in New Jersey both at the outset of the plan and on a going-forward basis. 75

VNJ should be prohibited from engaging in any joint marketing with or making referrals of its local exchange service customers to affiliates that provide competitive services, or in the alternative, the Company should be required to impute and to flow-through to customers of its rate regulated services the full market value of all joint marketing benefits that it provides to its affiliates. 81

ALLEGEDLY PROPRIETARY DATA
HAS BEEN DELETED

The Board should reject VNJ’s PAR-2 plan as proposed, and adopt in its place the recommendations put forth by the Ratepayer Advocate. 86

VERIZON’S PETITION TO RECLASSIFY MULTILINE BUSINESS SERVICES AS COMPETITIVE 87

Verizon’s characterization of multiline business as consisting of any service involving more than a single business access line is an inappropriate benchmark for reclassification. 87

Verizon has failed to demonstrate that small business customers are being served by competitors at the wire center level. 94

CLEC penetration rates at the wire center or exchange level is the appropriate metric in determining competitiveness in the market. 96

It is incorrect to conclude that the presence of competitors equates to the presence of competition. 98

In those areas where competition is not present, there can be no determination that like or substitute services are available. 116

Substantial entry barriers can still exist despite nominal entry by few firms in few markets. 120

The Board should expand upon the minimal criteria identified in the statute when considering VNJ’s reclassification of regulated multiline business services as competitive. 128

The Board should deny Verizon-New Jersey’s Petition to reclassify multiline business services into the “competitive” category, but could consider a more narrowly focused, better supported proposal in the future. 135

Tables

Table 1 Revised Statewide Residential Subsidy Analysis 57

Table 2 ETI Adjusted Direct TSLRIC Costs for RBES - Flat Rate Service (statewide average) 59

ALLEGEDLY PROPRIETARY DATA
HAS BEEN DELETED

Table 3	Revised Subsidy Calculation for Residential Basic Service	62
Table 4	CLEC Margins Increase When Larger Customers are Served Via T-1 Equivalent Loops	92
Table 5	Growth in Competitive Data is Misleading When Reaching Conclusions on the Development of Competition for Multiline Business Services	119

Attachments

Attachment 1	Statement of Qualifications
--------------	-----------------------------

INTRODUCTION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

Qualifications

Q. Please state your name, position and business address.

A. My name is Lee L. Selwyn. I am President of Economics and Technology, Inc., (“ETI”), Two Center Plaza, Suite 400, Boston, Massachusetts 02108. Economics and Technology, Inc. is a research and consulting firm specializing in telecommunications economics, regulation, management and public policy.

Q. Please summarize your educational background and previous experience in the field of telecommunications regulation and policy.

A. I have prepared a Statement of Qualifications, which is attached hereto as Attachment 1.

Q. Have you previously testified before the New Jersey Board of Public Utilities (“Board”)?

A. Yes, I have presented testimony before this Board on a number of occasions dating back to the mid-1970s. In May 1976, I submitted testimony that addressed numerous rate design issues relative to New Jersey Bell's requested rate increase in Docket 7512-1251 on behalf of the New Jersey Retail Merchants Association. In August 1978, I submitted testimony before the Board on behalf of the New Jersey Retail Merchants Association in Dockets 7711-1136,

ALLEGEDLY PROPRIETARY DATA
HAS BEEN DELETED

1 784-278, 784-279, concerning the pricing of New Jersey Bell's vertical services and terminal
2 equipment. In September 1992, I submitted testimony on behalf of the New Jersey Cable
3 Television Association in Docket T092030358, the alternative regulation proceeding. In
4 August 1998, I submitted rebuttal testimony on behalf of AT&T Communications of New
5 Jersey, Inc. and MCI Telecommunications in BPU Docket TO97100808 and OAL Docket
6 PUCOT 11326-97N, the Selex/IMC Imputation proceeding. Most recently, in August and
7 September of 2000, I submitted direct and rebuttal testimony, respectively, on behalf of the
8 State of New Jersey Division of the Ratepayer Advocate in BPU Docket T099120934, a
9 review of Verizon New Jersey's Competitive Telecommunications Plan and extension of the
10 existing Plan for Alternative Regulation.

11

12 **Assignment**

13

14 Q. On whose behalf is this testimony being presented?

15

16 A. I am appearing on behalf of the State of New Jersey Division of the Ratepayer Advocate
17 (Ratepayer Advocate).

18

19 Q. What was your assignment in this proceeding?

20

21 A. ETI was engaged by the Ratepayer Advocate to review the testimony offered by Verizon
22 New Jersey ("Verizon," "VNJ" or "the Company") in support of its proposal for a new Plan
23 for Alternative Regulation ("PAR-2"), and to present the results of my examination and

1 analysis of the Company's proposal to the Board along with specific recommendations for
2 an alternative plan.

3

4 My assignment also included an evaluation of Verizon New Jersey's study regarding the
5 presence of subsidies in basic exchange services and an analysis of Verizon New Jersey's
6 Petition to reclassify multiline business services as Competitive.

7

8 **Summary of Testimony**

9

10 Q. Please summarize the testimony you are presenting at this time.

11

12 A. My testimony addresses several key policy issues raised by the so-called Plan for Alternative
13 Regulation ("PAR-2") that has been submitted to the Board by Verizon New Jersey.

14

15 *PAR-2 does not satisfy the statutory requirements set forth at NJSA 48:2-21.18(a)(1)-(8).*

16 Under the terms of the New Jersey Telecommunications Act, the Board is directed to
17 "review the plan and may approve the plan, or approve with modifications, *if it finds*, after
18 notice and hearing, that the plan: (1) will ensure the affordability of protected telephone
19 services; (2) will produce just and reasonable rates for telecommunications services; (3) will
20 not unduly or unreasonably prejudice or disadvantage a customer class or providers of
21 competitive services; (4) will reduce regulatory delay and costs; (5) is in the public interest;
22 (6) will enhance economic development in the State while maintaining affordable rates; (7)
23 contains a comprehensive program of service quality standards, with procedures for board

1 monitoring and review, and (8) specifically identifies the benefits to be derived from the
2 alternative form of regulation.”¹ The Ratepayer Advocate testimony demonstrates that PAR-
3 2 as proposed by VNJ *satisfies none of these specific requirements*.

4
5 PAR-2 as proposed by VNJ provides no durational term, nor any mechanism for assuring
6 that rates will decrease over time. The Plan contains no rate adjustment mechanism, but
7 instead merely caps rate levels for the aggregate of all rate regulated services at those in
8 existence as of the effective date of the Plan. And as additional services are reclassified as
9 “competitive” (such as the multiline business services that are being proposed for such
10 reclassification at this time), even the nominal “rate cap” will be eroded as additional
11 services are shifted out from under the operation of the cap.

12
13 While PAR-2 and the enabling legislation under which it is being proposed express an
14 expectation that effective competition will develop, nothing in the PAR-2 as proposed by
15 VNJ requires that this actually take place or is in any manner linked to the actual arrival of
16 competition.

17
18 The Ratepayer Advocate believes that the Board should reject PAR-2 as proposed. If a new
19 alternative regulation plan is to be adopted, however, Ratepayer Advocate has developed an
20 alternate plan that will better satisfy the applicable statutory and regulatory goals. The
21 Ratepayer Advocate plan is premised upon the ultimate development of effective, price-

1. NJSA 48:2-21.18(a)(1)-(8) (emphasis added).

1 constraining competition in the New Jersey local exchange service market. Indeed, if and
2 when VNJ's share of the local market decreases to the same extent that AT&T's share of the
3 interstate long distance market had dropped before the FCC declared AT&T to be a "non-
4 dominant" carrier – i.e., 60% – the Ratepayer Advocate plan would essentially deregulate
5 VNJ altogether. Short of that ultimate goal, the Ratepayer Advocate plan contains several
6 triggering conditions that, once achieved by VNJ, would result in reduced regulation and
7 increased pricing and earnings flexibility for the telephone company.

8
9 Based on the testimony of Ratepayer Advocate witness James Rothschild, prior to
10 implementing a new PAR, it is appropriate to reduce Verizon's revenues by \$175-million,
11 which accounts for earnings in excess of the cost of equity and New Jersey's share of
12 financial benefits arising from the merger between the former Bell Atlantic and former
13 incumbent carriers NYNEX and GTE. My testimony expands upon the "subsidy analysis"
14 provided by Verizon in its testimony, and further demonstrates that residential services
15 provide substantial contribution to the costs incurred by Verizon in providing these services.
16 Hence, the analysis that I present supports the recommendation of Mr. Rothschild to make
17 VNJ's rate of return more competitive by reducing revenues.

18
19 The revenue reduction should be implemented in accordance with the proposal set forth in
20 the testimony of Ratepayer Advocate witness Douglas Williams. That is, rate centers should
21 be consolidated generally along county boundaries, and local calling areas should be
22 expanded so as to include a caller's "home" rate center and all (newly) contiguous rate

1 centers -- all the while maintaining residential rates at current levels. Verizon will thus
2 realize the revenue reduction through foregone toll and switched access revenues for calls re-
3 rated as local. This plan not only provides consumers the benefits of larger calling areas, but
4 rate center consolidation also reduces the quantity of telephone numbers required by carriers
5 seeking to provide service in New Jersey. Such a policy may well obviate the need for
6 implementing more area codes in New Jersey in the future.

7

8 Finally, my testimony addresses VNJ's petition to reclassify its multiline business services
9 as "competitive," and explains that, as submitted, the petition would effectively deregulate
10 large portions of the local business market for which no effective competition presently
11 exists. VNJ has failed to demonstrate that competition is anything close to as pervasive as
12 its proposal would require and, as such, its proposal does not meet the statutory requirements
13 for service reclassification and should not be adopted at the present time.

1 ALTERNATIVE REGULATION PLAN PARAMETERS

2
3 **VNJ's revised plan for alternative regulation (PAR-2) contains many of the same**
4 **deficiencies as its previous "Competitive Telecommunications Plan," and like the**
5 **Company's prior attempt, fails to satisfy the statutory goals and requirements as set forth**
6 **in the 1992 Telecommunications Act.**
7

8 Q. Please describe the circumstances under which Verizon New Jersey has filed its "Plan for
9 Alternative Form of Regulation-2 for Verizon New Jersey Inc."²

10
11 A. VNJ originally filed a petition on December 30, 1999 for approval by the Board of
12 modifications to its existing alternative regulation plan (PAR). It is my understanding that
13 the current plan was originally due to expire on that date. The modified plan, which the
14 Company described as the "Competitive Telecommunications Plan" ("CTP"), requested that
15 all of VNJ's Residence, Business, and Access rate-regulated services be reclassified as
16 competitive. The Board directed VNJ to file a supplement to its petition in which VNJ was
17 to demonstrate that the proposed CTP was in compliance with the 1992 Telecommunications
18 Act and that, on that basis, the plan should be approved by the Board. On May 18, 2000,
19 VNJ submitted its supplemental filing, and responsive testimony was filed August 9, 2000.³
20 Evidentiary hearings were held in September and October 2000. On November 9, 2000, the
21 Ratepayer Advocate filed a Motion to Dismiss the case based upon its conclusion that VNJ

2. West/Taylor (VNJ), Exhibit 2.

3. I submitted Initial Direct Testimony on August 9, 2000, Supplemental Direct Testimony on August 18, 2000 and Rebuttal Testimony on September 8, 2000 in NJ BPU Docket No. T099120934.

1 had failed to meet the statutory standards for approval of the CTP. Between November 14
2 and 16, 2000 AT&T, MCI, Sprint, New Jersey Cable Telecommunications Association, New
3 Jersey Citizen Action, Legal Service of New Jersey, the Senate Democrats, and Cablevision
4 filed briefs in support of the Ratepayer Advocate's Motion. On December 1, 2000, VNJ
5 filed a request to withdraw its original petition and requested another extension of the
6 existing PAR. On December 22, 2000, the Board issued an Order, pursuant to its December
7 20, 2000 Agenda Meeting, granting VNJ's withdrawal of the plan and extending the current
8 PAR to December 31, 2001.⁴ In that Order, the Board set out a series of specific filing
9 requirements for the Company to address in its future PAR petition, and directed VNJ to file
10 its proposal for a new plan (PAR-2) on February 15, 2001.⁵ The current proceeding, and my
11 testimony, addresses the Company's February 15, 2001 filing.

12

13 Q. What specific items did the Board require VNJ to include in the filing?

14

15 A. In Section II, "Minimum Criteria For The New Plan Proposal & Procedural Schedule" of its
16 *December 22, 2000 Order* issued in Docket No. TO99120934, the Board directed VNJ to
17 submit several specific proposals and analyses.⁶ I have included that list here, along with the

4. In the Matter of the Application of Bell Atlantic - New Jersey, Inc. for Approval of a Modified Plan for an Alternative Form of Regulation and to Reclassify all Rate Regulated Services as Competitive, NJ BPU Docket No. TO99120934, *Order*, December 22, 2000 ("December 22, 2000 Order").

5. *Id.* at 4-8.

6. *Id.*

1 name of the witness for the Ratepayer Advocate who will be presenting testimony on that
2 item:

3

4 • VNJ's proposal for the Board to consider to address alleged subsidies in basic exchange
5 services (Lee L. Selwyn);

6

7 • VNJ's proposal for an expanded Lifeline program including the initiation of a customer
8 outreach program (Roger D. Colton);

9

10 • VNJ's proposal for the continuation of the existing Access New Jersey program beyond
11 2001 (Thomas H. Weiss);

12

13 • VNJ's "new comprehensive proposal" for service quality standards (Barbara R.
14 Alexander);

15

16 • VNJ's financial analysis of earnings and the quantification of merger savings with a
17 plan for the distribution of such merger savings to VNJ's customers (James A.

18 Rothschild); and

19

20 • VNJ's analysis and recommendation as to whether the existing provisions of the current
21 plan should be included, modified, or eliminated and how that recommendation satisfies

22 the eight criteria of the Act (Lee L. Selwyn and James A. Rothschild).

1

2 In addition, the Board also directed VNJ to include analysis and recommendations regarding
3 whether the Board should consider the following as part of the PAR-2:

4

5 • Geographic expansion of local callings areas and the collapsing of toll bands (Douglas
6 S. Williams);

7

8 • Basic service options beyond POTS (Douglas S. Williams); and

9

10 • Discounting and/or flexible pricing (Lee L. Selwyn).

11

12 As I and the other Ratepayer Advocate witnesses will discuss, the revised PAR still fails to
13 comply with the standards set forth for alternative regulation in the 1992 New Jersey
14 Telecommunications Act or with the specific requirements set out by the Board in its
15 *December 22, 2000 Order*, and thus should not be adopted in the form proposed.

16

17 **The various efficiency and productivity incentives contained in alternative regulation plans**
18 **are intended to benefit consumers of the utility's noncompetitive services in the form of**
19 **lower rates, improved service quality, and increased availability of advanced services, and**
20 **must not be viewed solely as a device to permit the utility to increase its earnings beyond**
21 **the level that would be permitted under traditional "cost-plus" rate of return regulation.**

22

23 Q. Please describe the circumstances under which the Board adopted the original PAR for use
24 in regulating Verizon New Jersey.

25

1 A. On March 31, 1992, Verizon New Jersey (then known as Bell Atlantic-New Jersey) filed a
2 proposed plan for alternative regulation pursuant to the New Jersey Telecommunications Act
3 of 1992. That act explicitly gave the Board the authority to approve alternative forms of
4 regulation, provided that the requesting telecommunications utility satisfied a number of
5 explicit standards.⁷

6

7 Under the terms of the Act, the Board is directed to “review the plan and may approve the
8 plan, or approve with modifications, *if it finds*, after notice and hearing, that the plan: (1)
9 will ensure the affordability of protected telephone services; (2) will produce just and
10 reasonable rates for telecommunications services; (3) will not unduly or unreasonably
11 prejudice or disadvantage a customer class or providers of competitive services; (4) will
12 reduce regulatory delay and costs; (5) is in the public interest; (6) will enhance economic
13 development in the State while maintaining affordable rates; (7) contains a comprehensive
14 program of service quality standards, with procedures for board monitoring and review, and
15 (8) specifically identifies the benefits to be derived from the alternative form of regulation.”⁸

16

17 Q. How does New Jersey’s public utility legislation define an alternative regulation plan?

18

19 A. NJSA 48:2-21.17 defines an alternative form of regulation as “a form of regulation of
20 telecommunications services other than traditional rate base, rate of return regulation to be

7. NJSA 48:2-21.16(a)(5).

8. NJSA 48:2-21.18(a)(1)-(8) (emphasis added).

1 determined by the Board and may include, but not be limited to, the use of an index,
2 formula, price caps or zones of rate freedom.”

3

4 Q. Was this what the Board adopted in the original PAR?

5

6 A. Yes. The original PAR consisted of a formula-based rate adjustment. The formula was the
7 Gross Domestic Product Fixed-Weight Price Index (GDP-PI) minus 2%.⁹ The 2% was
8 adopted as a productivity offset, generally called an X-factor.¹⁰ The Board adopted Staff’s
9 view that the “purpose of a productivity offset is to ensure that changes in prices for
10 telecommunications services closely match anticipated changes in the costs of providing
11 those services.”¹¹

12

13 Q. Do you agree with the Staff assessment of the purposes of a productivity offset?

14

15 A. Yes. The rate adjustment mechanism in any alternative or “incentive” regulation plan
16 should be structured so as to produce, on an ongoing basis, rates that are no higher than

9. In the Matter of the Application of New Jersey Bell Telephone Company for Approval of its Plan for an Alternative Form of Regulation, State of New Jersey Board of Regulatory Commissioners, Docket No. T092030358, *Decision and Order*, May 6, 1993 (“1993 Alt Reg Order”), at 50.

10. BA-NJ had originally sought a rate adjustment formula set at one-half of the Consumer Price Index. The Board determined that this proposal was inappropriate, and adopted the fixed 2% offset factor in its place. *Id.*

11. *Id.* at 49.

1 those that would prevail under traditional rate of return regulation and, indeed, should
2 capture and flow through to ratepayers a portion of the additional efficiency gains that are
3 expected to arise specifically as a consequence of the adoption of incentive regulation itself.
4 In order to accomplish this outcome, the productivity offset (“X-factor”) should embrace all
5 of the elements affecting the company’s costs – including anticipated future productivity
6 growth to capture efficiency gains achieved by the company itself, an input price differential
7 to recognize the fact that the *real cost* of the telephone company’s inputs is decreasing (i.e.,
8 the prices of the telephone company’s inputs are increasing less than the overall economy
9 wide inflation rate), and a consumer productivity dividend to capture for ratepayers a portion
10 of the anticipated salutary effects of incentive regulation itself in stimulating additional
11 productivity growth greater than that which had been achieved in the past, under rate of
12 return regulation.

13

14 Q. Please describe the rationale for a rate adjustment mechanism in more detail.

15

16 A. A rate adjustment mechanism is an essential component of any alternative regulation plan
17 because the rationale behind such a plan is to de-link traditional accounting costs from the
18 prices that the utility charges its customers for noncompetitive services. Under an
19 alternative regulation plan (often referred to as “incentive” regulation), the company is given
20 an incentive to perform more efficiently by allowing it to retain all or part of the increased
21 earnings that may result from cost reductions, productivity gains, or increased utilization of
22 its assets. On the other hand, it also penalizes the company for allowing costs to increase or

1 for making poor investment decisions by (at least in theory) foreclosing the company's
2 ability to be "made whole" as it would otherwise be able to do under traditional rate of
3 return regulation. Under incentive regulation, the utility is no longer assured an automatic
4 right to recover costs through its "revenue requirement." The Board recognized this in a
5 report to the Governor and Legislature in 1994, noting that under alternative regulation
6 "[r]esources are expected to be allocated with productivity and efficiencies in mind, and
7 therefore, preclude unnecessary investments in plant to influence return. The emphasis will
8 shift from one that seeks to maximize return through plant investment to one that seeks to
9 introduce new products and contain costs."¹²

10
11 The theory of incentive regulation is that in a fully competitive market, carriers would be
12 forced to lower prices as the industry experienced productivity gains in order to remain
13 competitive with other carriers. This is especially true in the telecommunications industry
14 where it has been shown that the sector consistently outperforms the economy as a whole
15 both with respect to its own productivity growth as well as productivity gains in its supplier
16 sectors, as reflected in a persistent pattern of input price growth that is well below the
17 economy wide rate of inflation. In its price cap review proceeding, the FCC found that:
18 "telephone carriers, historically, have experienced cost changes, due to differences in
19 productivity and input prices relative to the economy as a whole, resulting in telephone rate

12. New Jersey Board of Regulatory Commissioners, *The State of Telecommunications in New Jersey: Response to the Telecommunications Act of 1992*, January 1994, at 11.

1 trends being below the level of inflation."¹³ Furthermore, the FCC also found that telecom-
2 munications companies experience an input price differential, whereby the price of inputs
3 they purchase tends to differ from the prices in the economy as a whole.¹⁴
4

5 At the same time, in order for consumers to benefit from adoption of alternative regulation,
6 some means must be found to assure that the efficiency/productivity gains that are stimulated
7 by incentive regulation are flowed through to the utility's customers in some manner. If all
8 that is accomplished through adoption of incentive regulation is to increase the utility's
9 profits while not reducing prices for noncompetitive services or providing other
10 demonstrable consumer or economic benefits (such as those expressly anticipated in the
11 1992 Telecommunications Act), then no public policy purpose is achieved from the
12 increased earnings flexibility that it afforded the utility under alternative regulation.
13

14 Q. How might such a flow-through of efficiency gains be accomplished?
15

16 A. Ideally, as the market for the telephone company's services becomes more competitive,
17 marketplace forces will pressure the dominant incumbent, Verizon New Jersey in this case,
18 to pass on its efficiency gains in the form of lower prices in order to remain competitive with
19 its nonregulated rivals. This is certainly what the New Jersey legislature anticipated when it

13. Federal Communications Commission, Price Cap Performance Review for Local Exchange Carriers, CC Docket No. 94-1, *First Report and Order*, 10 FCC Rcd 8961, 9006 (1995).

14. *Id.* at 9033.

1 enacted the 1992 legislation. Specifically, alternative regulation was to be adopted in order
2 to “address changes in technology and the structure of the telecommunications industry ...”¹⁵

3 On the other hand, if competition does not develop to a point where the incumbent’s market
4 power – its ability to set prices in excess of cost – is effectively constrained, a poorly
5 designed incentive regulation plan could degenerate into *de facto* deregulation of the
6 incumbent monopoly, allowing it to retain all of its efficiency gains without any requirement
7 to pass any of these on to its customers, or worse still, allowing it to increase prices for
8 services for which no effective competition is present to excessive, supracompetitive levels.

9
10 The solution to this problem is to design an incentive regulation plan that will operate as
11 intended *if the market becomes competitive* while incorporating “backstop” mechanisms to
12 protect consumers from the incumbent’s exercise of unconstrained market power in the
13 event that sufficient competition does not materialize. The approach that was adopted by the
14 Board in the PAR was to use a “price cap” that was subject to annual inflation and
15 productivity adjustments together with a “sharing” mechanism that would (in principle)
16 assure that at least a portion of any efficiency gains substantially in excess of those
17 contemplated by the price cap adjustment factor itself would nevertheless be passed on to
18 consumers.

19
20 In other words, the fundamental objective of a well-designed rate-adjustment mechanism is
21 to capture for monopoly service ratepayers the efficiency incentives characteristic of

15. NJSA 48:2-21.16(5).

1 competitive markets and to provide protections against excessive prices and cross-
2 subsidization of competitive services where price-constraining competition is not yet
3 present. Indeed, this Board recognized this fundamental purpose of price cap regulation
4 when it adopted the price cap plan for Bell Atlantic-New Jersey in 1993 and reiterated that
5 position in its report to the Governor and Legislature reviewing the implementation of the
6 Act in 1994. Specifically, the Board wrote:

7
8 The productivity offset ... is incorporated in the rate mechanism to ensure that
9 changes in prices for telecommunications services closely match anticipated
10 changes in the costs of providing those services. It is another means of
11 ensuring that the relative affordability of service remains intact and is not
12 eroded by advances in productivity.¹⁶
13

14 It is therefore essential that the price cap mechanism include components that provide an
15 appropriate representation of all the attributes of a competitive marketplace, and in
16 particular, the incorporation of an appropriate rate adjustment mechanism. My testimony
17 below will explain the key features of such a plan, and why those features are required in
18 order to achieve the “competitive outcome” goal for alternative regulation.

19
20 Q. What are the key features of a typical alternative regulation plan?

21
22 A. Under a typical alternative regulation plan, the weighted average prices for the services in a
23 given “price cap basket” must be less than or equal to the price index. The basic price index

16. New Jersey Board of Regulatory Commissioners, *The State of Telecommunications in New Jersey: Response to the Telecommunications Act of 1992*, January 1994, at 18.

1 formula consists of an inflation measure, typically the Gross Domestic Product Price Index
2 (GDP-PI), minus a productivity offset or so-called “X-Factor,” plus or minus any permitted
3 “exogenous” cost changes. This is similar to what the Board adopted under the current
4 PAR.

5

6 Q. Has the current alternative regulation plan accomplished the intended results?

7

8 A. No, it has not. The plan has not led to increased competition in the marketplace nor has it
9 greatly expanded economic development. Furthermore, the testimony of Ratepayer
10 Advocate witness Rothschild shows that VNJ has been allowed to retain earnings beyond
11 what should have been shared with ratepayers, and that the current plan has been biased in
12 favor of investors over ratepayers.¹⁷

13

14 Q. Please explain why you say that there is no local competition (particularly for residential
15 consumers) in New Jersey.

16

17 A. Clearly there is some agreement on this issue given the reaction to VNJ’s filing of its
18 “Competitive Telecommunications Plan” last year. VNJ’s withdrawal of its CTP and the
19 subsequent “refiling” without an attempt to reclassify residential services as competitive is
20 instructive. It is fair to conclude therefrom that VNJ recognized the severe lack of

17. Rothschild (RPA), at 12-13.

1 competition in the residential services market. As I note later in my testimony, VNJ should
2 also recognize the lack of competition in the business services market.

3

4 I will briefly recap what was presented during the CTP case last year. According to the data
5 provided by Dr. Taylor in that proceeding, VNJ still served about 96.5% of New Jersey's
6 local exchange customers *four years* after the enactment of the *Telecommunications Act of*
7 *1996* (the "Act").¹⁸ VNJ's dominance of the residential local exchange market is most likely
8 even higher because many CLECs across the country have focused upon the more lucrative
9 large business customer, often ignoring entirely the small (one-to-twenty line) business and
10 most residential subscribers.¹⁹ In New Jersey, it wasn't until two years following passage of
11 the Act that facilities-based CLECs began to provide local service for residential customers,
12 but not nearly as long for these carriers to target business customers.²⁰

18. This estimate includes 134,397 access lines served by facilities-based CLECs at the end of March, 2000, and 100,320 VNJ access lines being resold by CLECs; together these total 234,717, or 3.5% of VNJ's 6,748,935 switched access lines. Testimony of Dr. William E. Taylor on behalf of Bell Atlantic - New Jersey, Inc., BPU Docket No. TO99120934, May 18, 2000, at 30-31; ARMIS 43-08, Table III.

19. Testimony of Dr. William E. Taylor on behalf of Bell Atlantic - New Jersey, Inc., BPU Docket No. TO99120934, May 18, 2000 Attachment 2.A.

20. Board of Public Utilities, *Status of Local Competition: Report and Action Plan*, Docket No. TX 98010010, July 1998, ("NJ Local Competition Report"), at 2.

1 VERIZON NEW JERSEY'S PROPOSED PLAN

2

3 **As proposed, VNJ's PAR-2 would make far-reaching and essentially *permanent* changes in**
4 **the manner in which the Company is regulated – or *not regulated* – in New Jersey.**

5

6 Q. Dr. Selwyn, have you reviewed the “Plan for Alternative Form of Regulation-2 for Verizon
7 New Jersey Inc.” as set out in Exhibit 2 of the panel testimony of Mr. West and Dr. Taylor?

8

9 A. Yes, I have.

10

11 Q. Please summarize the plan as you understand it.

12

13 A. The main elements of the PAR-2 are the following:

14

15 • *The PAR-2 takes effect as of the date of Board approval and continues indefinitely with*
16 *no specific term or end date.* That notwithstanding, the proposed plan allows VNJ to
17 file for modification of the plan or to seek approval of a new plan at any time.

18

19 • *The PAR-2 includes a streamlined process to introduce new services.* VNJ's proposal
20 contemplates that new services would become effective five business days after filing
21 with the Board *without* the approval of the Board. Filing for competitive offerings

1 would include “sufficient information to show compliance with NJSA 48:2-21.19(b),”²¹
2 and while still requiring Board approval, would become effective five business days
3 after a filing. The Board would have the authority to investigate or suspend the new
4 service if it found that the service violated a Board rule or was not in compliance with
5 New Jersey law. VNJ’s proposal includes the following notice provisions: VNJ will
6 provide notice to interested parties on the day the filing is made and VNJ will file notice
7 with the Board 14 days before the introduction of new services (or as required in the
8 pending rulemaking in Docket No. TX92020201).

- 9
- 10 • *The PAR-2 includes a streamlined process for revenue neutral rate restructuring.*
11 Under the proposed plan, VNJ would have the ability to file for revenue neutral rate
12 restructuring at any time and the “revenue neutrality of such filings will not be limited
13 to within service categories.”²² Additionally, the *Board is required* to issue a decision
14 on any such filing within 90 days, otherwise the filing “shall be deemed approved.”²³
15
 - 16 • *The PAR-2 includes a provision for reclassifying services as Competitive.* VNJ
17 proposes that it be allowed to petition the Board at any time to reclassify any existing
18 Rate Regulated service as Competitive. The filing for such a reclassification would
19 include evidence as required by the Telecommunications Act of 1992 and would be

21. West/Taylor (VNJ), Exhibit 2, at 2.

22. *Id.* at 3.

23. *Id.*

1 subject to notice provisions. VNJ proposes to give notice to interested parties that it
2 intends to make such a filing with the Board 30 days in advance of doing so and such
3 notice will include: a brief description of the filing and a copy of the filing upon request
4 (proprietary information would be treated in accordance with the terms of a protective
5 agreement).

- 6
- 7 • *The PAR-2 contemplates consumer and competitive safeguards.* VNJ proposes to
8 “observe” consumer and competitive safeguards with respect to its Competitive services
9 and those services which it seeks to reclassify as Competitive. VNJ will charge rates for
10 Competitive services that exceed the rates being charged to others for Rate Regulated
11 services that are used by VNJ to provide the Competitive service (“Imputation of Rate
12 Regulated Charges”). VNJ will file and maintain tariffs in conformance with Docket
13 No. TX92020201 for services classified as Competitive, unless the Board does not
14 require a tariff for the particular service (“Tariffs for Competitive Services”). VNJ will
15 identify each Rate Regulated service that is incorporated into a Competitive service and
16 shall make the Rate Regulated service available to any customer under the terms used
17 by VNJ in providing the Competitive service (“Unbundling”). VNJ will provide annual
18 reports showing that “in the aggregate, the total revenues for Verizon NJ’s Competitive
19 services exceed the total direct costs of the services.”²⁴ (“Cost Allocation Data”). VNJ
20 proposes the notice provisions outlined above in terms of filing for new services,
21 reclassification and revenue neutral rate restructuring (“Notice”). Finally, VNJ’s plan

24. *Id.* at 4

1 incorporates the standards for determining and monitoring competitive services as set
2 forth in Docket No. TX92020201 and the Board shall consider market concentration;
3 barriers to entry; presence of competitors; and the presence of like or substitute services
4 when determining whether a service previously found to be Competitive should be
5 reclassified (“Standards for Determining and Monitoring Competitiveness of Services”).

- 6
- 7 • *The PAR-2 includes reporting requirements.* VNJ proposes to continue filing the
8 service quality reports it currently provides. Failure to comply with the benchmarks
9 established in Docket No. T087050398 will result in investigation and corrective action
10 by VNJ for exception level violations and a formal report will be filed with the Board
11 for surveillance level violations. The proposal acknowledges that pursuant to current
12 law, “[t]he Board reserves the right to terminate the Plan, after notice and hearing, in the
13 event that a substantial degradation of service is found to exist.”²⁵ VNJ also proposes to
14 file an annual report detailing Access New Jersey progress and a biennial report
15 detailing Opportunity New Jersey progress. Access New Jersey will provide quarterly
16 and annual reports for Competitive services as contained in NJAC 14:10-5.9.

17

 - 18 • *The PAR-2 expands existing Access New Jersey commitments.* An additional \$20-
19 million will be committed (\$14-million to the CPE fund and \$6-million to the video
20 portal). Discounted ANJ rates will be extended until the end of 2004 and contracts that
21 are signed on 2004 will be for a minimum of three additional years (or through 2007).

25. *Id.* at 5.

- 1 • *The PAR-2 expands the Lifeline program.* The Lifeline program will be expanded to
2 include: self-certification, senior customers at or below 150% of poverty level, and an
3 outreach program.
4

5 **Verizon New Jersey's PAR-2 eliminates many key elements and protections that should be**
6 **present in a robust alternative regulation plan.**
7

8 Q. Dr. Selwyn, from your summary of VNJ's plan, one might conclude that the plan is very
9 comprehensive. Is this the case?
10

11 A. No. The proposal eliminates many key elements of a traditional alternative regulation plan,
12 including many that are contained in the current plan, and does not pass the eight criteria test
13 as mandated by NJSA 48:2-21.18(a).
14

15 Q. What elements are missing from VNJ's proposed plan?
16

17 A. VNJ's proposal for PAR-2 eliminates several key elements that were present in the first plan
18 for alternative regulation that was approved by the Board in 1993. First, all rate adjustment
19 provisions contained in the previous plan have been eliminated except, notably, the
20 provision for VNJ to file for revenue neutral rate restructuring. VNJ has eliminated the
21 commitment to rate stability and the formula-based rate adjustment mechanism that existed

1 under the current PAR.²⁶ Second, VNJ proposes to eliminate the sharing provision. Third,
2 VNJ proposes to eliminate the exogenous event provision. Fourth, VNJ proposes to
3 discontinue the filing of quarterly financial monitoring reports for rate regulated services.
4

5 Q. Please explain why these elements are important parts of any alternative regulation plan.
6

7 A. First, as I explained earlier, a rate adjustment mechanism is an essential component of any
8 alternative regulation plan because rates still must be regulated in some manner while
9 providing incentives for the company to operate efficiently. The rate adjustment mechanism
10 is applied to rate regulated services because, by definition, there is insufficient competition
11 to constrain prices and thus ensure just and reasonable rates. Where services are deemed
12 “competitive,” no rate adjustment mechanism is required, because the finding under which
13 they were reclassified is that the market will exert downward pressure on those prices,
14 keeping them at just and reasonable levels. Second, the proposed plan eliminates the
15 earnings sharing provision. While Ratepayer Advocate witness Mr. Rothschild will cover
16 this issue in much more depth, I will say that the elimination of the sharing provision
17 compounds the problems with this filing. In a competitive marketplace, a firm cannot
18 expect to retain indefinitely any efficiency gains or technology advances that it may achieve,
19 because these will soon be replicated by its rivals. Accordingly, were VNJ faced with real

26. West and Taylor note that parties agreed to forego formula-based rate adjustments as part of the ANJ stipulation in 1997 for the remainder of the PAR and argue that the same rationale for foregoing such an adjustment applies here. *Id.* at 3. I would note that the parties agreed to forego the rate adjustment mechanism in return for increased infrastructure investment.

1 and effective competition in New Jersey, it would be forced to pass on cost savings to
2 customers as these come to be reflected in lower market prices overall, or risk losing these
3 customers altogether. Under PAR-2 as proposed and in the absence of actual competition,
4 VNJ would be permitted to retain indefinitely all of its efficiency and productivity gains and
5 to flow all of the economic benefits therefrom solely to its shareholders.

6
7 Q. Has the Board previously found the rate adjustment mechanisms to be an integral part of the
8 PAR under which VNJ operates?

9
10 A. Yes. Indeed, in its 1993 Order adopting the original PAR, the Board found that the rate
11 adjustment mechanism, coupled with the sharing requirement, would “operate as a
12 reasonableness check and provide a balance among reasonable customer prices; incentives
13 for business efficiency and marketing innovation; and elimination of inefficiencies and the
14 expense of traditional rate base, rate of return regulation.”²⁷

15
16 Q. You included “exogenous cost changes” as part of the overall rate adjustment mechanism. Is
17 VNJ proposing any modifications to this aspect of its incentive regulation plan?

18
19 A. Yes. The Company is nominally proposing that the exogenous cost adjustment component
20 be eliminated although, on closer reading, the net effect of this proposal may be rather one-
21 sided. West and Taylor suggest that “eliminating the exogenous events provision in PAR-2

27. *1993 Alt Reg Order*, at 43.

1 [will] reduce regulatory delay and costs,” and that since “Verizon NJ has never filed for rate
2 relief under the exogenous events provision contained in PAR,” including such “a provision
3 in PAR-2 that has little likelihood of being invoked seems like useless regulatory clutter.”²⁸
4 Of course, if the provision is included but never used, its inclusion does not result in
5 regulatory delay and cost. The problem, however, is that VNJ is really not proposing that
6 the provision be eliminated.

7
8 According to West and Taylor, “Verizon NJ has always had the ability to petition the Board
9 for rate relief and to present its rationale. Similarly, the Board has always had the authority
10 to investigate a rate filing and approve it, modify it, or reject it based on the merits of VNJ’s
11 claims weighed against the merits of any evidence presented by other parties including the
12 Ratepayer Advocate, in such a proceeding. This relationship between the Board and VNJ
13 will remain intact until such rate regulation becomes unnecessary. Accordingly, VNJ has
14 eliminated the exogenous events provision from PAR-2, leaving the focus on any future
15 request for rate relief to be the underlying rationale – where it should be – versus distracting
16 and wasteful debates concerning what is or what is not ‘exogenous.’”²⁹

17
18 Q. What’s wrong with that?
19

28. West/Taylor (VNJ), at 7.

29. *Id.* at 7-8.

1 A. Under PAR, “exogenous events” can both increase and decrease the Company’s costs.

2 Under the existing structure, any party can propose an exogenous adjustment, which would
3 be evaluated solely as a “changed condition” relative to the status quo of the PAR itself.

4 Under VNJ’s proposal, it or a party would be required to offer a full-blown general rate case
5 type of petition, and if initiated by VNJ, opposing parties would be required to accept the
6 burden of litigating a full-blown rate case. Clearly, this will not *reduce* regulatory costs and
7 burdens, it will actually increase them, and impose a substantial burden upon consumers and
8 consumer advocates either to propose downward exogenous adjustments or to defend against
9 VNJ proposals for increased rates.

10

11 Q. Is there any likelihood that conditions might arise that would justify a reduction in rates for
12 rate regulated services beyond what is contemplated in the rate adjustment mechanism itself?

13

14 A. Yes. In her direct testimony at 28-30, Ms. Alexander recommends that the Board prohibit
15 VNJ from engaging in “joint marketing” of its monopoly basic services together with
16 competitive services offered by affiliates, including advanced data services (xDSL) or, when
17 approved, interLATA long distance. As I shall discuss in more detail later in my testimony,
18 I fully support this recommendation. However, and as I shall also discuss in more detail
19 below, in the event that either the Board does not accept Ms. Alexander’s recommendation
20 and permits such joint marketing activities to take place, or if a Board decision prohibiting
21 joint marketing is successfully overturned by VNJ, the Board should impute some
22 compensation to VNJ’s rate regulated services for these valuable referrals and should adopt

1 a process by which these imputed amounts are flowed through to customers of these services
2 separate and apart from the “normal” PAR-2 rate adjustment process. More generally, I
3 believe that it is appropriate that events not expressly contemplated in the PAR-2 rate
4 adjustment process – and particularly where these involve a transfer of something of value
5 from the rate regulated part of VNJ to other parts of VNJ or to any affiliate – be reflected in
6 an explicit downward rate adjustment. As discussed in the section of my testimony that sets
7 forth the affirmative Ratepayer Advocate proposed plan, the exogenous cost mechanism that
8 is in effect in the current PAR should remain in effect in the new PAR. Any adjustment to
9 the exogenous cost mechanism of the PAR as it presently exists should not be structured so
10 as to give VNJ the ability to increase rates without also subjecting the Company to rate
11 decreases where supported by an appropriate rationale.

12

13 Q. What is your concern with respect to the proposed changes in VNJ’s reporting requirements
14 under the PAR-2?

15

16 A. Verizon New Jersey’s proposed plan discontinues the quarterly financial monitoring reports
17 for rate regulated services. The Company argues that this reporting is no longer necessary
18 because the new plan does not contemplate a formula-based rate mechanism nor a sharing
19 mechanism. Even if the Board were to adopt a PAR-2 that contained no rate mechanism or
20 sharing provisions, the financial monitoring reports are still valuable tools to assess the
21 success of any plan. Until all services have been deemed competitive, i.e. there is a robustly
22 competitive local telecommunications market, the Board, and interested parties, must be able

1 to conduct an analysis of the success or failure of any regulatory regime under which the
2 incumbent is operating.

3

4 There is nothing in VNJ's plan that would automatically constrain prices (i.e., simulate a
5 fully competitive market) and, given the minimal extent of competition in the New Jersey
6 local telecommunications market, there is no basis to assume that marketplace forces will be
7 up to this task. The Company contemplates making a filing before the Board for each and
8 every price change. It is fair to conclude that the resulting situation would be one where
9 VNJ goes before the Board to raise rates, but reductions in prices will be less likely.

10 Furthermore, while the Company has, for now, clearly backed off from its intention to raise
11 the rates for basic exchange services (through requiring the purchase of a bundled package)
12 as put forth as part of the CTP, there is no commitment in this proposal to maintain the
13 current rate of \$8.19 for basic telephone service for any period of time. Finally, the
14 elimination of financial reporting makes it very difficult for the Board and other parties such
15 as Ratepayer Advocate to assess the merits of VNJ's proposals going forward.

16

17 Q. Why is it important to maintain financial reporting requirements?

18

19 A. There must be some way to assess whether the alternative regulation plan if adopted by the
20 Board is successful in meeting the relevant statutory and regulatory objectives. VNJ's plan
21 contemplates that the Company may come before the Board at any time and file for modifi-
22 cations to its plan. If VNJ were to claim that the PAR-2 is harming the Company financially

1 or that VNJ was unable to compete in the market under the confines of the plan, the Board,
2 and other parties to such a proceeding, must be able to assess VNJ's claims. The Board is
3 statutorily authorized to conduct a proceeding to review the reclassification of any service
4 previously deemed competitive. The elimination of financial reporting would thwart that
5 statutory right. In addition, since the Ratepayer Advocate's proposed plan (which I discuss
6 below) includes a sharing mechanism, the retention of sharing would require ongoing
7 financial reporting.

8
9 It is highly instructive that the Board has undertaken to conduct a comprehensive review of
10 VNJ's financial integrity and its relationship with its parent, as provided in its recent RFP
11 issued in Docket No. TO01020095. The Board's initiative exemplifies and supports the
12 necessity for ongoing financial reporting.³⁰

30. The RFP notes that: "this review will give particular attention to the existing VNJ policy that determines the amount of dividends sent to the parent Corporation. In reviewing VNJ's financial integrity, the Consultant will consider earnings, capital structure, overall rate of return, return on equity, bond ratings, pre-and post-tax interest coverage, dividend policy and other financial integrity measures reasonably applicable to VNJ, including the use of investment analyst opinion on the company. In evaluating VNJ's relationship with its parent Corporation, the Consultant will examine the process/method of allocation and the reasonableness of affiliated costs as well as VNJ's compliance with applicable allocation rules on costs and revenues to ensure that VNJ's reports appropriately reflect the share of revenues and the direct, joint and common costs reflected in its overall New Jersey intrastate reporting, as well as the portion related to its rate-regulated intrastate services. In addition, the Consultant will review the data presented by VNJ on its quantification of savings and costs resulting from the 1997 Bell Atlantic/NYNEX merger and the 2000 Bell Atlantic/GTE merger. The Consultant will analyze the VNJ quantification of merger savings and costs to evaluate whether the allocations of merger costs and savings are appropriate and reasonable and comply with applicable rules and, where estimates were provided by VNJ, whether these estimates are based on reasonable assumptions
(continued...)

1 **Verizon New Jersey’s proposal for pricing flexibility must be closely scrutinized.**

2

3 Q. Have you found other problems in the course of your review of VNJ’s proposed plan?

4

5 A. Yes. In particular, the Company’s proposal for pricing flexibility, which encompasses
6 revenue neutral rate restructuring and the introduction of new services, is especially
7 troublesome.

8

9 Q. Why is that?

10

11 A. VNJ’s proposal would allow new service offerings to become effective in five business days
12 without prior approval of the Board. While I support efforts to reduce regulatory delay and
13 bring services to customers more quickly, the five business day time line is unjustified and
14 unworkable. The Company has not provided a rationale for such a short time period. In
15 addition, VNJ’s proposal fails to provide an adequate definition of exactly what would
16 constitute a “new” service rather than, for example, a repricing or repackaging of an existing
17 service under a new brand name.

18

19 Q. Why do you consider five business days to be unworkable?

20

30. (...continued)
and data.” RFP at Section 1.3

1 A. Such a timetable essentially puts the Board in the position of having to suspend services
2 “after the fact” if the Company’s filing is found to be deficient. The Company’s plan seems
3 to consistently err on the side of VNJ. In other words, the default condition is to approve
4 new services, even those the Company is seeking to classify as competitive. The plan allows
5 a monopoly carrier the flexibility to offer new services without waiting for the Board’s
6 approval and within an extremely short time. Neither the Board, nor the Ratepayer
7 Advocate, can be expected to review all filings and analyze compliance with the standards
8 set forth in NJSА 48:2-21.19(b) within five days. VNJ states that “[a]lthough Board
9 approval is required to classify a service as competitive, the service will be effective
10 immediately so customers can benefit from the availability of new features and service
11 offerings without regulatory delay.”³¹ The resulting plan would cause consumer confusion
12 and regulatory nightmares if services were later suspended. Such a situation would put
13 pressure on the Board to approve a service even when VNJ’s filing is deficient, because to
14 do otherwise would require “taking away” services from customers. Verizon effectively
15 shifts the burden onto the Board to go through a lengthy and expensive proceeding if and
16 when it finds that VNJ’s prices are unreasonable.

17
18 Q. Do you have an alternative proposal?

19

20 A. Yes. The Board and the Ratepayer Advocate must be given sufficient time to review any
21 filing that introduces new services. In all cases, all petitions for rate regulated services

31. West/Taylor (VNJ), Exhibit 4, at 7.

1 should be subject to notice and hearing. However, recognizing that certain new service
2 offerings may not give rise to a contested case and can be otherwise implemented with
3 greater facility, an initial 30 day review period would be appropriate. If the offering is
4 uncontested and no objections are entered, then the new service could be adopted by the
5 Board after the 30 day period.

6
7 Q. You also expressed concern that VNJ's proposal fails to provide an adequate definition of
8 exactly what would constitute a "new" service. Can you please elaborate on this point?

9
10 A. Yes. A truly "new" service is one that offers a function or capability that was previously not
11 available. For example, Qwest offers its customers who subscribe to call waiting with caller
12 ID a spoken identity of the calling party when a call arrives while a conversation is in
13 progress. Were VNJ to offer this service for the first time, that would constitute a truly
14 "new" service feature, and there would be no public policy reason to delay its availability.

15
16 However, where a "new" service is simply a repackaging or repricing of existing features
17 that area already being offered either on an *a la carte* basis or in different feature bundles, it
18 is misleading to characterize such proposals as constituting "new" services rather than
19 simply representing repricing of existing offerings. For example, Verizon currently offers
20 several "packages" of service features to its residential customers in New Jersey:

21
22 *Local Package* includes unlimited local calling, touch-tone, unlimited local
23 directory assistance, and your choice of value added features. You can manage your
24 incoming and outgoing calls by selecting features that fit your needs now and

1 modify your selection as your needs change. And there's no extra one-time charge
 2 for connection of this service. Value Added Features* available to choose from:
 3 Intercom Extra, Call Block, Repeat Dialing, Call Forwarding, Speed Dialing 30,
 4 Call Waiting, Three-Way Calling, Caller ID with Name, Ultra Forward, Distinctive
 5 Ring, Voice Dialing, and Fixed Call Forwarding.³²

6
 7 *Big Deal* lets you choose more than ten of our most popular services for one great
 8 flat rate. You can manage your incoming and outgoing calls by selecting the
 9 features that fit your needs now, and modify your selection as your needs change.
 10 *Big Deal* lets you get the most out of your telephone services by giving you choice,
 11 flexibility and the ability to better manage your calls. *Big Deal* services include:
 12 Caller ID with name (required), Three Way Calling, Call Forwarding, Ultra
 13 Forward , Call Waiting, Speed Dialing, *69, Repeat Dialing, Distinctive Ring,
 14 Voice DialingSM, Fixed Call Forwarding, Call Block, and Intercom Extra.³³

15
 16 The creation of other service packages or bundles like these, made up of existing, primarily
 17 *noncompetitive* services, should not be afforded the status of a “new” service either with
 18 respect to filing and approval requirements or with respect to service classification.

19
 20 Q. What might be the consequences of permitting the Company to define and treat as “new”
 21 and “competitive” services repackages of existing noncompetitive services and features?

22
 23 A. It would be possible for VNJ, through this device, to coerce customers into migrating away
 24 from protected regulated services such as RBES over to nonregulated service packages that
 25 would fall outside of the scope of any price adjustment mechanism that the Commission
 26 might otherwise adopt. For example, suppose that there is an existing VNJ customer who

32. www.bellatlantic.com/foryourhome/NJ/Products/LPX-02/index.html, visited 4/28/01.

33. www.bellatlantic.com/foryourhome/NJ/Products/BDX-01/index.html, visited 4/28/01.

1 currently takes RBES, touch tone, call waiting, caller ID, some use of *69 service, and some
2 use of local directory assistance, bringing her total monthly bill for all of these services to
3 around \$23. She learns that she can get the VNJ “Local Package” for \$21.95 providing
4 unlimited local calling, touch tone, unlimited DA, and the three custom calling features she
5 uses (call forwarding, caller ID, and *69), and actually save about a dollar, so she signs up
6 for the “Local Package,” and VNJ doesn’t even impose a nonrecurring charge for this
7 service migration.

8
9 Now, because the rate for the “Local Package” is not subject to any Board-imposed price
10 constraint, VNJ may from time to time choose to increase the rate for this service. One
11 might think that the Company’s interest in keeping the “Local Package” attractive to new
12 customers might preclude this action, but that may not be the case in practice. VNJ could
13 increase the “Local Service” price to \$25 or \$28 and create yet another “new” service
14 package under a new name (e.g., “Local Plus”) that it will promote to new customers. Of
15 course, if the existing “Local Package” customer happens to hear about the new offering and
16 asks to have her service changed to the new package, VNJ would probably do it, *but only*
17 *after the customer has affirmatively asked that this be done.*

18
19 It is essential that if the Board allows the streamlined filing and approval process for “new”
20 services that VNJ has requested, that it establish clear and unambiguous guidelines as to
21 precisely what would qualify as a “new” service and that it not permit the Company to utilize

1 this device simply as a means for repackaging, rebranding and reclassifying existing services
2 and existing customers out of the price-regulated services category.

3

4 Q. Is Verizon's proposed 90 day period for revenue neutral rate restructuring acceptable?

5

6 A. No, it is not. Again, it is inappropriate to limit the Board's time to analyze the Company's
7 pricing proposal. Indeed, when the Board adopted the original PAR in 1993, it found that
8 the Company's proposed plan for revenue neutral rate restructuring required changes.
9 Specifically, it found that:

10

11 The Board *will not be limited* to 60 days to consider a revenue neutral request
12 nor shall any such change take effect until approved by the Board. The Board
13 notes that in reviewing any such revenue neutral rate restructure, it shall
14 consider whether the resulting rates will continue to be just and reasonable, and
15 reserves the right to direct NJ Bell to provide any and all documentation
16 determined to be necessary to enable such review. The Board . . . places the
17 full burden on NJ Bell to demonstrate that a particular restructure proposed by
18 it is appropriate and reasonable.³⁴
19

20 The Board should adopt the same position with respect to the current proposed plan for
21 revenue neutral rate restructuring. I discuss my proposal for pricing flexibility further in my
22 testimony below when I present an alternative proposal for the PAR-2.

23

34. *1993 Alt Reg Order*, at 67 (emphasis added).

1 Q. As proposed by VNJ, do the pricing flexibility mechanisms contained in the plan meet the
2 eight statutory criteria that must be satisfied for the adoption of the alternative regulation
3 plan?
4

5 A. No. The pricing flexibility aspects of VNJ's proposal are perhaps the most problematic in
6 terms of satisfying the statutory criteria. As I outline below, the plan fails to meet the
7 majority, if not all, of these criteria.
8

9 **Verizon New Jersey has failed to demonstrate that the proposed plan complies with the**
10 **eight specific statutory criteria as set out in NJSA 48:2-21.18.**
11

12 Q. You stated above that VNJ's proposal as a whole fails to comply with the eight statutory
13 requirements of an alternative regulation plan. Please identify the eight criteria and why they
14 are important in this case.
15

16 A. NJSA 48:2-21.18 allows a local exchange telecommunications company to petition the
17 Board to be regulated under alternative regulation. The carrier is required to submit its plan
18 with its petition, and the Board may approve the plan (or approve the plan with modifica-
19 tions) only if it meets eight specific criteria.
20

1 Q. Dr. Selwyn, please address each criterion in turn. First, does VNJ's plan ensure the
2 affordability of protected telephone services?³⁵

3

4 A. No, it does not. As I have suggested above, the plan does not establish any sort of
5 mechanism for adjusting rates other than filings by the Company. Insufficient competition
6 exists to exert pressure on VNJ to keep its RBES rates low, and the Company has not
7 offered to maintain even its basic \$8.19 rate for any specified length of time. Ratepayer
8 Advocate witness Roger D. Colton also testifies that VNJ's proposed plan does not ensure
9 affordability.³⁶

10

11 Q. West and Taylor state that "[r]ates charged for protected services at the outset of PAR-2 will
12 remain identical to rates in effect today under PAR."³⁷ Doesn't that ensure the affordability
13 of protected services?

14

15 A. As the plan now stands, and as I understand the plan, the Company could, hypothetically,
16 file a petition the day after the plan is approved to raise that rate or file for revenue neutral
17 rate restructuring. For example, there is nothing in the PAR-2 proposal that would preclude
18 VNJ from coming before the Board as early as the day following approval of the plan, and
19 seeking a "revenue neutral" rate restructuring to implement the very same \$17.50 RBES

35. NJSA 48:2-21.18 (a)(1).

36. Colton (RPA), at 9.

37. West/Taylor (VNJ), at 8.

1 “package” that was the source of so much opposition and concern when the Company
2 proposed it last year. West and Taylor are simply stating the obvious: that this proposal does
3 not request that the Board approve a rate hike for RBES services *at this time*. The plan does
4 not, however, ensure that rates will remain affordable or that VNJ will not try once again to
5 achieve what it was unable to accomplish in 2000.

6
7 Q. Does VNJ’s plan produce just and reasonable rates for telecommunications services?³⁸

8
9 A. No. For the same reason that the plan does not ensure affordability, it does not ensure that
10 rates will be just and reasonable. VNJ’s plan does not attempt to establish just and
11 reasonable rates going in even though it is evident that VNJ has been overmanning under the
12 current plan.³⁹ The plan does not ensure that ratepayers are receiving any of the benefits of
13 the Company’s increasing productivity or sharing in the industry’s declining costs. Even if
14 rates were considered just and reasonable going in (which I do not consider them to be),
15 without some mechanism for reducing rates as costs decline (either through the operation of
16 competitive marketplace forces or through regulatory action), the Company would be
17 reaping profits for its stockholders and failing to pass on any benefits to consumers as it
18 would be forced to do in a competitive market.

19

38. NJSА 48:2-21.18(a)(2).

39. Rothschild (RPA), at 13.

1 Q. VNJ's plan must not unduly or unreasonably prejudice or disadvantage any customer class
2 or providers of competitive services.⁴⁰ Is this the case?

3

4 A. No. I believe there is potential for harm to both customers and competitors under the
5 proposed plan. The possibility of unlimited revenue neutral rate changes poses particular
6 risks to customers of rate regulated services. Furthermore, the plan offers little specific
7 detail describing how the protections for competitive providers outlined in the legislation
8 will be implemented or verified. Simply stating that "Verizon NJ agrees that the rates that it
9 charges for a competitive service shall exceed the rates charged to others for any non-
10 competitive (i.e., Rate Regulated) service used by Verizon NJ to provide the competitive
11 service,"⁴¹ is not a sufficient safeguard, if the Company is able to recover most of the "cost"
12 of its competitive services in the rate elements for non-competitive services, for at least two
13 separate reasons. First, in providing its own so-called "competitive" services, VNJ may not
14 actually utilize precisely the same "rate-regulated services" that a competitor *would have to*
15 *use* in order for that competitor to provide a comparable service. In that event, the VNJ
16 commitment rings hollow. Second, even if the VNJ commitment is interpreted to refer to
17 rate-regulated services that competitors would be required to use rather than to rate-regulated
18 services that VNJ itself actually uses, the result would still be an unreasonably low margin
19 with which competitors must compete. VNJ would not be required, for example, to price its
20 competitive services so as to make any contribution above the "direct cost" toward any

40. NJSА 48:2-21.18(a)(3).

41. West/Taylor (VNJ), Exhibit 2, at 3.

1 shared, joint or common overhead costs, *even though the competitive service will itself*
2 *derive enormous direct economic benefit from its integration with VNJ's monopoly*
3 *activities.* The real protection would be in a cost allocation system designed to prevent
4 cross-subsidization. The use of the Embedded Analysis System still is not an adequate
5 safeguard because VNJ has an incentive to overallocate costs to non-competitive services.

6
7 Q. Does the proposed plan reduce regulatory delay and costs?⁴²

8
9 A. No, it does not. If anything, the Board should expect more regulatory delay and costs than
10 resulted from the current plan. Again, there are no mechanisms to provide for automatic rate
11 adjustments. Mr. West and Dr. Taylor suggest that streamlining the process for tariff filings
12 will reduce regulatory delay and costs.⁴³ However, this assertion seems to be based upon the
13 assumption that such filings will always be approved without investigation. As noted above,
14 VNJ's plan allows new services to go into effect after just five business days whether or not
15 the Board has approved the filing. Thus, if there is a question about such a filing, there are
16 substantial regulatory costs to suspending a service that has already been offered to
17 customers. Because of the ability for VNJ to file an unlimited number of revenue-neutral
18 restructuring and exogenous cost filings with the Board, or even file for an entirely new plan,
19 VNJ's proposed plan would create more regulatory burden than would exist either under the
20 current plan or under traditional rate of return regulation.

42. NJSA 48:2-21.18(a)(4).

43. West/Taylor (VNJ), Exhibit 2, at 15-16.

1 Q. Is the proposed plan in the public interest?⁴⁴

2

3 A. No, it is not. Mr. West and Dr. Taylor argue that because the PAR-2 satisfies all of the
4 criteria in the Act, it is in the public interest. Given that the plan does not satisfy the criteria,
5 the plan is clearly not in the public interest. The plan gives extraordinary flexibility to VNJ
6 without proper safeguards for consumers. While claiming to reduce regulatory costs (which
7 I do not believe to be the case here) and allowing for flexibility are laudable goals, these
8 must be balanced with protection for the consumer in a monopoly local service environment.

9

10 Q. Will the plan enhance economic development in New Jersey while maintaining affordable
11 rates?⁴⁵

12

13 A. No. VNJ's plan is not good public policy in that it combines network infrastructure
14 investment with an extremely lax regulatory structure that offers little protection to
15 customers of noncompetitive services – the customers who will be supporting the investment
16 program. Moreover, the plan does nothing to promote – or even to facilitate – the
17 development of effective competition for local telecommunications services in this state.
18 Indeed, to the extent that several major New Jersey employers have a major stake in the
19 success of local competition, the failure of this sector to develop and thrive in the wake of

44. NJSA 48:2-21.18(a)(5).

45. NJSA 48:2-21.18(a)(6).

1 VNJ's current PAR would suggest that, if anything, the state's economy may actually have
2 been impaired under the current regulatory regime.

3

4 Q. Does the proposed plan contain a comprehensive program of service quality standards with
5 procedures for board monitoring and review?⁴⁶

6

7 A. No. It does not. VNJ's plan largely maintains the service quality reporting standards found
8 in the current PAR.⁴⁷ As discussed in the testimony of Ratepayer Advocate witness Ms.
9 Alexander, additional service quality reporting requirements should be implemented in any
10 new PAR adopted by the Board.

11

12 Q. Does the proposed plan specifically identify the benefits to be derived from the alternative
13 form of regulation?⁴⁸

14

15 A. I do not believe that anyone would argue that some benefits do exist from the adoption of
16 alternative forms of regulation. The Board, and the legislature for that matter, already found
17 that some form of alternative regulation was beneficial when it adopted the original PAR.
18 However, it is incumbent upon VNJ to make a showing that the proposed plan offers

46. NJSA 48:2-21.18(a)(7).

47. West/Taylor (VNJ), Exhibit 2, at 5.

48. NJSA 48:2-21.18(a)(8).

1 benefits over and above the current plan. VNJ has failed to do so. As such, the Board
2 should reject VNJ's proposed plan.

1 Q. Can you provide an example that will demonstrate these relationships?

2

3 A. Yes. Suppose that the utility produces three services, call them A, B and C, with TSLRICs
4 of \$10-million, \$6-million and \$4-million, respectively. In addition to this \$20-million in
5 aggregate TSLRIC for these three services, the firm also incurs \$12-million in common
6 overhead costs. For purposes of this example, we will assume that the \$12-million of
7 common overhead is fixed, i.e., that it will remain the same even if the absolute or relative
8 quantities of each of the individual services changes. (In fact and in practice, this is unlikely
9 to be the case, as I shall discuss further below). Now, suppose that service A is priced so as
10 to produce total revenues of \$20-million, i.e., to provide \$10-million in “contribution” in
11 excess of its \$10-million TSLRIC. Service B is priced to produce \$8-million in revenue (\$2-
12 million in contribution), while service C is priced at \$4-million, exactly equal to its TSLRIC.
13 Some (for example, Dr. Taylor for VNJ) would probably assert that *none* of these three
14 services is being subsidized, since all three are priced at or above their respective TSLRICs.
15 I would strongly disagree.

16

17 In our example, service A, which represents 50% of the aggregate firm-wide TSLRIC, is
18 supporting 83.3% of its total overhead, while service C, which represents 20% of the total
19 TSLRIC, is making zero contribution to overhead. To appreciate the full dimensions of this
20 concern, suppose that service A is a monopoly service with little or no consequential
21 competition, while service C is actually classified as “competitive” and is not even subject to
22 price regulation. Service C is obviously benefitting from all of the economies of joint

1 production and its access to the full scope of the firm's resources, yet makes no contribution
2 whatsoever toward the firm's common overhead costs. Thus, although the service C
3 revenues are not less than the service C TSLRIC, service C is receiving and benefiting from
4 valuable services and resources for which it is not paying anything, and in that sense it is
5 clearly being subsidized by, in this case, service A.

6
7 Q. Are you familiar with VNJ's subsidy calculation for Residential Basic Exchange Service
8 (RBES)?

9
10 A. Yes I am.

11
12 Q. Please summarize your understanding of VNJ's subsidy calculation for RBES.

13
14 A. In its February 15, 2001 filing, VNJ presented a subsidy analysis that portrayed VNJ's retail
15 rate for RBES to be below the direct TSLRIC of the basic service, and thus characterized the
16 service as being subsidized by other services.⁴⁹ VNJ compared the direct TSLRIC for all
17 RBES services (flat rate, message, measured and other, including usage) to the revenues
18 generated by the RBES services, the Subscriber Line Charge (SLC), touchtone services, and
19 a monthly state credit reflecting a 1987 federal tax reform. The result of VNJ's comparison
20 is that the total direct costs of the encompassed services exceed the revenues received by
21 VNJ for the services by BEGIN PROPRIETARY<< [REDACTED] >>END PROPRIETARY

49. Matt/Meacham/Porsini/Taylor (VNJ), at 12.

1 per year.⁵⁰ Based upon this analysis, VNJ contends that RBES service is being subsidized
2 by other residential services.

3

4 Q. Did VNJ present a subsidy analysis that addressed only flat rate residential service?

5

6 A. Yes, VNJ presented a subsidy analysis that characterized the direct costs of flat rate
7 residential service as exceeding the revenues received by VNJ for the RBES service,
8 (including the SLC, touchtone services, and the state credit), by BEGIN

9 PROPRIETARY<< [REDACTED] -million>>END PROPRIETARY per year.⁵¹ The subsidy for flat
10 rate residential service accounts for the lion's share, or BEGIN PROPRIETARY

11 << [REDACTED] >>END PROPRIETARY, of the total RBES subsidy as calculated by VNJ.

12

13 Q. Do you agree with VNJ's assessment that RBES service is being subsidized by other
14 residential services?

15

16 A. No, I do not. VNJ's "analysis" is focusing upon only one specific group of rate elements –
17 those associated directly with the dial tone line – while ignoring entirely the numerous and
18 substantial sources of revenue that VNJ receives *from the very same customers* from the
19 various other rate elements associated with basic residential exchange service. When
20 performing a subsidy analysis for residential services, it is necessary to address *all* sources of

50. *Id.*

51. *Id.*

1 revenues and costs that follow from being a residential customer's chosen local service
2 provider. As discussed later in my testimony, VNJ's initial subsidy analysis does not
3 include other sources of residential revenues and costs, such as vertical features, intraLATA
4 toll, switched access and non-published Listing, which are directly linked to, and which have
5 no existence independent of, the basic residential dial tone line.

6

7 Q. Did VNJ perform a similar subsidy analysis for other residential services?

8

9 A. Yes, VNJ presented an analysis that illustrated that the revenues received by VNJ for
10 residential vertical features and intraLATA toll services exceed their TSLRIC costs by
11 BEGIN PROPRIETARY<< >>END PROPRIETARY.⁵² In other words,
12 vertical features and intraLATA toll services *are not subsidized* by other residential services.
13 Instead, they *generate a contribution*.

14

15 Q. Is it appropriate to include the revenues and direct costs associated with vertical features and
16 intraLATA toll services when determining whether or not basic exchange services are
17 subsidized by other services?

18

19 A. Yes. From an economic standpoint, when assessing the relationship between revenues and
20 costs for residential service, it is necessary to address *all* sources of revenues and costs that
21 follow from being a residential customer's chosen local service provider, rather than, as VNJ

52. *Id.* at 13.

1 has done here, to focus narrowly upon the revenue/cost relationships associated with
2 individual rate elements in isolation. In fact, the various rate elements associated with basic
3 residential service were never set in relation to their individual respective cost, and in that
4 sense VNJ's "analysis" can at best be described as proving something that is both obvious
5 and of no particular interest or relevance. In addition to the dial tone line, usage, touchtone,
6 and SLC, it is appropriate to include in a subsidy analysis such items as vertical features,
7 intraLATA toll service, switched access, and non-published Listings. In VNJ's testimony
8 addressing the reclassification of multiline business services, VNJ recognizes vertical
9 features – such as Call Waiting, Call Forwarding and various Caller ID features – as as
10 components of local switching and components of business local exchange service.⁵³ The
11 same reasoning should apply to residential services; therefore, Vertical Features - as well as
12 intraLATA toll services- should be included in the subsidy analysis.

13

14 Q. But there's nothing that *requires* a residential dial tone line customer to actually buy any of
15 these high-profit vertical features or toll services – why isn't it appropriate to assess the
16 amount of subsidy that a customer that buys *only* a dial tone line receives?

17

18 A. There are any number of highly competitive industries where it is common practice for
19 certain "entry" prices to be set below cost so as to be made up by higher, above-cost priced
20 "after-market" purchases. Classic examples can be cited, like Gillette offering razors at
21 below-cost prices while pricing the blades to generate a substantial profit; or Polaroid setting

53. Shooshan/Weber/Taylor (VNJ), at 18.

1 similar price/cost relationships for its cameras and film. Movie theaters make most of their
2 profit from sales of popcorn and other items at the concession stand, yet there is no
3 requirement that people attending a movie actually buy anything to eat at the theater.
4 Restaurants typically apply a far larger markup to alcoholic beverages than to food, yet don't
5 force patrons to actually order drinks. And, much closer to the instant situation, wireless
6 (cellular, PCS) carriers regularly "give away" cell phones in order to induce people to
7 subscribe for their service, making up the cost of the phones through monthly and usage
8 charges set in excess of cost. This type of pricing makes good business sense. There is no
9 independent demand for products/services such as razor blades, Polaroid film, popcorn at a
10 movie theater, and optional telephone services (e.g., vertical features) separate and apart
11 from the core product with which each is associated; what exists is a "joint demand" for the
12 "complementary" products or services. In certain types of "joint demand" situations, where
13 one of the jointly-demanded products/services is purchased once while repetitive and
14 relatively discretionary purchases of the other(s) are made, a profit-maximization strategy
15 could well involve below-cost or even "free" distribution of the primary product (e.g., the
16 Polaroid camera or residential access line) with the "loss" being made up through higher
17 mark-ups on the repetitively purchased product/service (Polaroid film, optional telephone
18 services).

19
20 In fact, long before the concept of "universal service" was codified in national telecommuni-
21 cations policy (e.g., the Communications Act of 1934), telephone companies were still
22 offering basic residential dial tone service below cost and making up the shortfall through

1 usage charges. As vertical features like touch tone, call waiting, caller ID and the like
2 become available beginning in the 1960s, these were as a policy matter priced in excess of
3 cost so as to assure a low “entry level” basic rate. Ironically, even though the existing rate
4 structures have been officially sanctioned by regulators as a public policy device for
5 promoting low-priced basic service in support of the universal service goal, VNJ seeks to
6 focus attention specifically upon the “below-cost” rate elements with the goal of ultimately
7 increasing their price levels, without a corresponding commitment to make equal and
8 offsetting reductions in the prices of those other rate elements that have traditionally been
9 used to make the overall residential service profitable.

10
11 Q. Has VNJ presented a subsidy calculation for residential basic service that includes vertical
12 features and intraLATA toll services?

13
14 A. Yes, VNJ has presented an analysis that compares the monthly per-line direct costs for flat
15 rate residential service, vertical features and intraLATA toll services to the monthly revenues
16 received by VNJ for these services, and in addition, the SLC, touchtone services, and the
17 applicable state credit. VNJ’s analysis illustrates that the monthly revenues received for the
18 encompassed services exceed monthly direct costs by BEGIN
19 PROPRIETARY<< [REDACTED] >>END PROPRIETARY per line.⁵⁴ Based upon VNJ’s own
20 analysis, residential basic services *is obviously not being subsidized* by other services.
21

54. Matt/Meacham/Porsini/Taylor (VNJ), at 14.

1 **VNJ has failed to include the costs and revenues for switched access and non-published**
2 **listings in its subsidy calculation for residential basic service.**

3

4 Q. You mentioned earlier that the revenues and costs associated with switched access and non-
5 published Listings should be included in the subsidy analysis of residential service. Why is
6 it appropriate to include these two additional services in the analysis?

7

8 A. It is appropriate to include the costs and revenues associated with switched access and non-
9 published listings in the subsidy calculation of residential basic services because, like
10 intraLATA toll and vertical features, these two services are ancillary to residential basic
11 services and are thus an integral part of the RBES package. All services that are being
12 purchased by a residential customer should be included in a subsidy calculation for
13 residential basic service, as well as services such as switched access that generate revenues
14 for VNJ even though the end-user does not purchase this service directly.⁵⁵

15

16 Q. Have you been able to identify the direct costs and revenues associated with residential
17 switched access service?

18

19 A. Yes. I calculated VNJ's annual direct costs and revenues for switched access service in New
20 Jersey to be BEGIN PROPRIETARY<< [REDACTED] >>END PROPRIETARY, and annual

55. Switched access revenues and costs are those that are associated with transporting a call from an end user to an Interexchange Carrier, and from an Interexchange Carrier to an end user.

- 1 revenues to be BEGIN PROPRIETARY<< [REDACTED] >>END PROPRIETARY.⁵⁶
- 2 Based on VNJ's data, switched access service generates a contribution of BEGIN
- 3 PROPRIETARY<< [REDACTED] >>END PROPRIETARY. I have calculated the monthly per
- 4 line direct cost and revenues associated with switched access to be BEGIN
- 5 PROPRIETARY<< [REDACTED] >>END PROPRIETARY,
- 6 respectively.⁵⁷
- 7
- 8 Q. Have you been able to identify the direct costs and revenues associated with residential non-
- 9 published listings?
- 10
- 11 A. Yes. VNJ has provided the recurring direct costs and revenues associated with residential
- 12 non-published listings in its cost and revenue workpapers.⁵⁸ Based upon VNJ's cost study
- 13 results, the annual direct costs and revenues for residential non-published listings are BEGIN
- 14 PROPRIETARY<< [REDACTED] >>END

56. VNJ did not report switched access costs and revenues disaggregated by residential and business. I relied upon VNJ's reported "consumer and business outpic percentages" as reported in VNJ's workpapers associated with expanded local calling areas to disaggregate costs and revenues to residential and business. See, VNJ response to RPA-358; Matt/Meacham/Porsini/Taylor (VNJ), Attachment 2, Cost an Revenue Workpapers, Tab "Contribution," line 10; and PAR 2 workpapers #2, electronic file ctp2des.xls, Tab "TB1&2," filed on March 8, 2001.

57. To calculate the monthly direct costs and revenues associated with switched access service, I used the same methodology employed by VNJ when it calculated monthly direct costs and revenues for vertical features and toll: annual revenues divided by forecasted 2001 primary residential lines as reported in Matt/Meacham/Porsini/Taylor (VNJ), Attachment 1A.

58. Matt/Meacham/Porsini/Taylor (VNJ), Attachment 2, Cost an Revenue Workpapers, Tab "ALL," line 400.

1 PROPRIETARY, respectively. Monthly per-line direct costs and revenues, spread across all
2 residential access lines, are BEGIN PROPRIETARY<< [REDACTED]
3 [REDACTED]>>END PROPRIETARY, respectively. VNJ's non-published listings generate an
4 annual contribution of BEGIN PROPRIETARY<< [REDACTED] >>END PROPRIETARY.
5 .

6 Q. Have you adjusted VNJ's subsidy analysis for flat rate RBES service to include the direct
7 costs and revenues associated with residential switched access service and non-published
8 listing service were in VNJ's subsidy analysis of flat rate RBES?

9

10 A. Yes, I have. The results which I present in Table 1 reveal that VNJ's monthly revenues
11 received for the encompassed services exceed monthly direct costs by BEGIN
12 PROPRIETARY<< [REDACTED] >>END PROPRIETARY. Clearly, flat rate RBES is not being
13 subsidized by other VNJ services.

1 BEGIN PROPRIETARY<<

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

Table 1		
Revised Statewide Residential Subsidy Analysis		
	Costs	Average Revenues
VNJ Dial Tone Line		
VNJ Flat Rate Usage		
RBES - Flat Rate		
SLC		
Touchtone		
State Credit		
Vertical Features		
IntraLATA Toll		
Switched Access		
Non-Published Listing Service		
Total		
Flat Rate Residential Service Generates a Total Monthly Contribution of \$		
Source: Matt/Meacham/Porsini/Taylor (VNJ), at 14; Attachment 2, Cost and Revenue Workpapers.		

21 >>END PROPRIETARY

22
23
24

Q. Do you accept the direct TSLRIC costs for RBES services as presented by VNJ?

ALLEGEDLY PROPRIETARY DATA HAS BEEN DELETED

1 A. No, I do not. The TSLRIC cost studies used to develop VNJ's direct costs do not reflect the
 2 necessary forward looking assumptions, and thus overstate the cost of providing flat rate
 3 residential service. VNJ's cost study results should reflect the forward-looking input
 4 assumptions identical to those recommended by the Mr. Scott C. Lundquist on behalf of the
 5 Ratepayer Advocate in the current UNE proceeding. Although I have chosen to rely upon
 6 the direct costs calculated by VNJ in my subsidy analysis for flat rate residential service, I
 7 have for illustrative purposes made adjustments consistent with the adjustments
 8 recommended by Mr. Lundquist in the VNJ's current UNE proceeding.⁵⁹ Making these
 9 conservative adjustments resulted in a monthly direct cost for flat rate residential service of
 10 BEGIN PROPRIETARY<< [REDACTED] >>END PROPRIETARY, a cost approximately BEGIN
 11 PROPRIETARY<< [REDACTED] >>END PROPRIETARY lower than the BEGIN
 12 PROPRIETARY<< [REDACTED] >>END PROPRIETARY cost that VNJ presented in its filing.⁶⁰
 13 Table 2 below presents the cost comparison.

14

59. The adjustments made by Mr. Lundquist corrected the following deficiencies in VNJ's TSLRIC cost models: (1) failure to assume sufficient deployment of Next Generation DLC in VNJ's loop study; (2) improper use of a utilization or "fill" factor for copper distribution that is based on embedded plant in VNJ's loop study; (3) excessive unit cost for telephone poles in VNJ's loop study; (4) unreasonably high cost of capital assumption in its loop and usage studies (note: In this proceeding, I used the cost of capital parameters developed by Mr. Rothschild (RPA)); and (5) Overstatement of costs due to the use of "GAAP" Depreciation Lives. For further explanation of these adjustments, *see* Rebuttal Testimony of Scott C. Lundquist, witness for the State of New Jersey Division of Ratepayer Advocate, Docket No. TO00060356, October 12, 2000.

60. Matt/Meacham/Porsini/Taylor (VNJ), at 14.

1 Again, I have not used these revised costs in my subsidy calculation for residential service
 2 that I presented earlier in my testimony. As such, the results of my subsidy calculation are
 3 understated. If I were to use these revised costs in my subsidy calculation the contribution
 4 generated by flat rate residential service would increase from BEGIN
 5 PROPRIETARY<< [REDACTED] >>END PROPRIETARY to BEGIN PROPRIETARY<< [REDACTED]
 6 [REDACTED] >>END PROPRIETARY.

7 BEGIN PROPRIETARY<<

Table 2		
ETI Adjusted Direct TSLRIC Costs for RBES - Flat Rate Service (statewide average)		
	VNJ Direct Costs	ETI Adjusted Direct Costs
Dial Tone Line	[REDACTED]	[REDACTED]
Usage	[REDACTED]	[REDACTED]
Total Flat Rate RBES	[REDACTED]	[REDACTED]
Source: Matt/Meacham/Porsini/Taylor (VNJ), TSLRIC study provided with workpapers.		

20 >>END PROPRIETARY

21

ALLEGEDLY PROPRIETARY DATA HAS BEEN DELETED

1 **The cost/revenue differential for residential services greatly exceeds that of business and**
2 **Centrex services.**

3

4 Q. Were you able to accurately identify the direct costs and revenues associated with VNJ's
5 business services?

6

7 A. No, I was not. During the discovery process, I requested that VNJ provide the direct
8 TSLRIC and revenues associated with all of its business services, including the services
9 classified as competitive, specifically Centrex services and DS1-Trunk services.⁶¹ Although
10 these services are classified as “competitive” for ratesetting purposes, they are produced
11 jointly with “noncompetitive” rate regulated services utilizing the same shared and joint
12 plant resources and benefitting from the same common corporate overheads. In order to
13 determine whether these “competitive” services are being subsidized by the noncompetitive
14 rate regulated services, it is necessary to determine that the relative contribution of revenues
15 over costs coming from these “competitive” services is no less than the contribution that
16 comes from rate-regulated services. By refusing to provide the corresponding revenue and
17 cost data for these “competitive” services, VNJ prevents the Board from pursuing this
18 important area of investigation and analysis. In its response to my discovery request, VNJ
19 identified previously provided data that reflected only the costs and revenues associated with
20 regulated business services, not VNJ’s competitive business services. VNJ specifically
21 objected to providing the requested data regarding the competitively classified Centrex and
22 DS1-Trunk services.

61. See, RPA-358.

1 **The excessive revenues being generated by residential service supports the notion that a**
2 **decrease in revenues would not be detrimental to the Company.**
3

4 Q. What is the significance of the fact that VNJ generates a substantial contribution with
5 respect to its residential services?
6

7 A. The existence of a substantial contribution associated with VNJ's residential services
8 confirms the fact that VNJ is earning fully adequate and, arguably, perhaps even excessive
9 revenues from this sector. Moreover, to the extent that the residential sector may be
10 contributing disproportionately to the common overhead costs of the Company, it would
11 then be effectively subsidizing *other* services including, potentially, those for which VNJ
12 confronts some or even substantial competition. The analysis that I have presented in my
13 testimony supports the recommendation of Mr. Rothschild to make VNJ's rate of return
14 more competitive by reducing revenues.⁶² Table 3 below illustrates that if Mr. Rothschild's
15 recommendation was approved by the Board residential basic exchange service would still
16 generate approximately BEGIN PROPRIETARY<< [REDACTED] >>END PROPRIETARY
17 per year in contribution.

62. The specific manner in which the revenue reduction should be accomplished is addressed in Mr. Williams' testimony. Later in my testimony, I provide a brief description of Mr. Williams' recommendations.

1 BEGIN PROPRIETARY<<

Table 3			
Revised Subsidy Calculation for Residential Basic Service			
Service	Cost	Revenue	Subsidy/ (Contribution)
RBES - Flat Rate			
RBES - Message			
RBES - Measured			
Other			
SLC			
Touchtone			
State Credit			
Vertical Features			
IntraLATA Toll			
Switched Access			
Non Published Listing Service			
Sub Total			
Mr. Rothschild's Revenue Reduction			
Total Contribution			

22 Source: Matt/Meacham/Porsini/Taylor (VNJ), at 12-13; Rothschild (RPA), at 7.

23 >>END PROPRIETARY

ALLEGEDLY PROPRIETARY DATA
HAS BEEN DELETED

1 THE RATEPAYER ADVOCATE'S PROPOSED PLAN

2

3 **Verizon New Jersey must continue to operate under some form of rate regulation until the**
4 **New Jersey local telecommunications market becomes fully competitive.**

5

6 Q. Does the Ratepayer Advocate have an affirmative proposal for a plan under which VNJ
7 should operate.

8

9 A. Yes.

10

11 Q. Can you briefly describe the major assumptions under which this plan operates?

12

13 A. Yes. The Ratepayer Advocate, the legislature, and the Board have spent the last decade
14 working toward the same goal: a fully competitive local telecommunications market. VNJ
15 has consistently argued that the market has or is becoming more competitive and as such the
16 Company should be treated for regulatory purposes more like its competitors – i.e., it should
17 be afforded greater flexibility in pricing, fewer reporting requirements, and the ability to
18 retain increased profits – so that it can compete in the market.⁶³ There is no question that
19 VNJ should be able to operate like any other competitor *when the market is fully competi-*
20 *tive*. But if VNJ is allowed greater flexibility before the market is competitive enough to be
21 price-constraining, customers will lose the protections that economic regulation is intended
22 to provide without obtaining the *replacement* for that regulation in the form of effective

63. See, e.g., West/Taylor (VNJ), at 6; Petition, at 2; Shooshan/Weber/Taylor (VNJ), at 6.

1 *price-constraining* competition. The plan proposed below is intended to provide VNJ with
2 the regulatory flexibility that would be appropriate under actual competitive market
3 conditions while at the same time creating a “backstop” to retain a degree of regulation
4 sufficient to protect New Jersey consumers in the event that competition in the local
5 exchange market (particularly the residential sector) fails to materialize. If competition
6 develops as VNJ expects, the regulatory protections in the Ratepayer Advocate plan will
7 “drop out” and be replaced by competitive market forces. On the other hand, if competition
8 fails to develop at the level or pace that VNJ *contends* will take place, the regulatory features
9 of the plan will “kick in” to produce the same “competitive outcome” result for New Jersey
10 consumers.

11
12 Q. Please outline the major elements of the Ratepayer Advocate’s proposed plan.

13
14 A. The elements of the Ratepayer Advocate’s proposed alternative regulation plan are as
15 follows:

- 16
17 • *A finite, five-year term for the plan.* The Ratepayer Advocate’s plan contemplates a finite
18 five year term. If competition has failed to develop after five years from the date of the
19 plan’s implementation, which would then be some fourteen years following enactment of
20 the 1992 Telecommunications Act, the Board should reassess the efficacy of alternative
21 regulation vs. rate of return regulation as a policy matter. If competition does develop,
22 and VNJ is essentially “deregulated” as of that time, the Board should convene a

1 proceeding to address the best way to maintain an affordable basic rate (currently \$8.19)
2 in New Jersey.

- 3
- 4 • *ANJ Commitments.* Ratepayer Advocate witness Thomas Weiss presents this portion of
5 the plan. In his testimony, Mr. Weiss critically reviews VNJ's network deployment
6 throughout the state and examines the ways in which the PAR-2 is deficient with regards
7 to deployment of advanced telecommunications services for schools and libraries. In
8 addition to analyzing current demand for advanced services by schools and libraries, Mr.
9 Weiss examines the terms of the price discounts that VNJ currently makes available to
10 schools and libraries for their use in purchasing data transport channels. He concludes
11 that in order to effect improved deployment of wideband and broadband access for New
12 Jersey's schools and libraries, VNJ should substantially increase the level of discounts
13 from tariff rates at which it offers wideband and broadband access to schools and
14 libraries.

- 15
- 16 • *Universal Service/Lifeline Program.* Ratepayer Advocate witness Roger Colton's
17 testimony considers the universal service impacts of VNJ's PAR-2 filing. Mr. Colton
18 reviews the extent to which VNJ's analysis of "affordability" of telephone services does
19 not comport with statutory criteria, and he also advances three conditions to be placed
20 upon any regulatory approval of VNJ's plan in this proceeding. Specifically, Mr. Colton
21 recommends the Board require VNJ to (1) fund its low-income Lifeline program to allow
22 low-income consumers to gain the full extent of federal assistance for local phone

1 service; (2) expand its Access New Jersey funding for the state's schools and libraries;
2 and (3) create a High Cost Fund to promote competition in high cost wire centers.

3
4 • *Process for the Introduction of New Services.* New service offerings should first be
5 defined by the Board. Repackaging or relabelling of existing services as “new” would not
6 be permitted. Thereafter, new service offerings should be subject to statutory due process
7 considerations of notice and hearing. However, recognizing that certain new service
8 offerings may not give rise to a contested case and can be otherwise implemented with
9 greater facility, an initial 30 day review period would be appropriate. If the offering is
10 uncontested and no objections are entered, then the new service could be adopted by the
11 Board after the 30 day period.

12
13 • *Process for Revenue Neutral Rate Restructuring.* The Board should require VNJ to
14 continue to file revenue neutral rate restructuring under the current rules and procedures,
15 and to account for the effect of demand stimulation and suppression⁶⁴ in making its
16 “revenue neutral” showing. The burden must remain on VNJ to demonstrate that the
17 restructure is appropriate and restructuring should be limited to particular service
18 categories.

64. The terms “stimulation” and “suppression” refer to consumer demand responses to price changes. Generally, an increase in price will suppress demand, whereas a decrease in price will stimulate demand, all else being equal.

- 1 • *Process for reclassifying services as Competitive.* The Board should require VNJ to
2 continue to file petitions for reclassification as it does today, but should require an
3 affirmative demonstration that effective and sustainable price-constraining competition is
4 present, not merely a theoretical demonstration that entry into the market for a particular
5 service is “possible.”
6
- 7 • *Service Quality Standards.* The testimony of Ratepayer Advocate witness Barbara
8 Alexander addresses retail service quality standards and Code of Conduct issues, and
9 recommends specific conditions that should accompany the Board’s approval of any PAR
10 in this proceeding. Among Ms. Alexander’s findings and recommendations, are the
11 following: (1) the Board should adopt specific statewide or generic customer service and
12 reliability performance standards; (2) there must be a direct link between the earnings
13 allowed under an alternative regulation plan and the measurement and monitoring of
14 service quality, so as to provide the Board with the ability to respond to the deterioration
15 of service quality; (3) the Board may consider initiating a separate investigation into
16 service quality and issue orders or assess civil penalties or customer restitution; (4) the
17 Board should adopt significant changes to the current service quality index; and (5) the
18 Board should adopt certain Code of Conduct requirements that would level the
19 competitive playing field while ensuring customer education, choice, service quality and
20 reliability.
21

1 • *Rate Refund.* Ratepayer Advocate witness Rothschild has calculated a permanent rate
2 reduction of \$175.2-million. As discussed in the testimony of Ratepayer Advocate
3 witness Douglas Williams, this permanent reduction in VNJ revenues should be
4 implemented by consolidating rate centers and expanding local calling areas, while
5 maintaining current rates for residential customers. VNJ will thus forego a certain
6 amount of intraLATA toll and switched access revenue for calls that would be re-rated as
7 local. Additionally, Mr. Rothschild recommends a one-time \$53-million refund to reflect
8 half of the estimated cumulative merger savings inuring to Verizon’s New Jersey
9 intrastate regulated operations.

10
11 • *Sharing and Rate Adjustments.* The Ratepayer Advocate proposes a structure where the
12 degree of price and earnings regulation (via periodic price adjustments and the sharing of
13 excess earnings) is linked to the level of actual competition that is present in the New
14 Jersey local service market. Ultimately, when VNJ’s share of the local service market
15 falls to below 60%, the Company would be deemed “non-dominant” and (with the
16 exception of any remaining “essential facilities”) would be deregulated. The 60% share is
17 the level that AT&T had achieved in the long distance market before the FCC declared it
18 to qualify for non-dominant status.⁶⁵

65. In the Matter of Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier,
Order, FCC 95-427, 11 FCC Rcd 3271 (1995), at para. 68.

1 • *Earnings Reporting Requirements.* VNJ must continue to file its quarterly financial
2 monitoring reports.

3

4 • *Exogenous Costs.* VNJ should continue to operate under the current plan's filing
5 requirements for exogenous events.

6

7 **Price adjustments and sharing linked to degree of competition.**

8

9 Q. Please describe the rate adjustment and earnings sharing process that would apply under the
10 Ratepayer Advocate plan.

11

12 A. Under the Ratepayer Advocate plan, rate regulated services would be placed into two
13 baskets. Basket 1 would contain the basic exchange dial tone line (currently \$8.19 plus
14 \$1.00 for touch tone).⁶⁶ Basket 2 would contain all other rate regulated retail services, such
15 as vertical services and local message charges. As competitor market shares increase, VNJ
16 would be subject to reduced sharing and rate adjustments, as follows:

17

18 1. *VNJ Market Share is greater than or equal to 90% and CLEC Market Share is less than*
19 *or equal to 10%:* In each year that incumbent Verizon New Jersey has a market share
20 greater than or equal to 90%, RBES Basket 1 services are capped at existing rates; 100%
21 of the result from application of the sharing formula (devised by Mr. Rothschild and

66. The Ratepayer Advocate is recommending that Touch Tone be made a part of basic exchange service.

1 described below) is flowed-through to ratepayers; and the full rate adjustment mechanism
2 (described below) is applied to Basket 2 services.

3
4 2. *VNJ Market Share is greater than or equal to 80% but less than 90% and CLEC Market*
5 *Share exceeds 10% up to and including 20%:* In each year that Verizon New Jersey has
6 a market share greater than or equal to 80% but less than 90%, RBES Basket 1 services
7 remain capped at present rates; 50% of the result from application of the sharing formula
8 is flowed-through to ratepayers; and only 50% of the annual Basket 2 rate adjustment is
9 applied.

10
11 3. *VNJ Market Share is greater than or equal to 70% but less than 80% and CLEC Market*
12 *Share exceeds 20% up to and including 30%:* In each year that Verizon New Jersey has
13 a market share greater than or equal to 70% but less than 80%, RBES Basket 1 services
14 are capped at existing rates; 25% of the result from application of the sharing formula is
15 flowed-through to ratepayers; and no rate adjustment is applied to Basket 2 service, which
16 remain (in the aggregate) capped at existing rate levels.

17
18 4. *VNJ Market Share is greater than or equal to 60% but less than 70% and CLEC Market*
19 *Share exceeds 30% up to and including 40%:* In each year that Verizon New Jersey has a
20 market share greater than or equal to 60% but less than 70%, RBES Basket 1 services are
21 capped at existing levels, but no sharing formula or earnings cap is applied, and Basket 2
22 rates are deregulated.

1 5. *VNJ Market Share is less than 60% and CLEC Market Share exceeds 40%*: If and when
2 Verizon New Jersey's market share drops to less than 60%, VNJ is declared non-
3 dominant with respect to all retail services, and no further price caps, rate adjustment
4 mechanisms, or sharing requirements will apply. The Board would, however, be
5 permitted to initiate a proceeding to consider appropriate competitively-neutral methods
6 for assuring continued affordability of residential basic exchange service.

7
8 **The Ratepayer Advocate's pricing flexibility plan correctly places the burden of proof**
9 **upon Verizon, rather than the Board, in assessing the validity of the Company's filings.**
10

11 Q. Do you have an alternative recommendation to the process that VNJ has proposed for the
12 introduction of new services and for revenue neutral rate restructuring?

13
14 A. Yes. The Board should reject VNJ's restrictive proposal to "streamline" the process for the
15 introduction of new services. As I noted above in my critique of VNJ's proposed plan, five
16 days is simply unworkable. Notice and hearing must apply for all new services; however, I
17 recognize that certain new service offerings may not give rise to a contested case. In those
18 instances, an initial 30 day review period would be appropriate.

19
20 Q. And what do you propose in terms of revenue neutral rate restructuring?

21
22 A. Again, it is inappropriate to limit the Board's time to analyze the Company's pricing
23 proposal. As I testified above, the Board rejected the Company's proposal for automatic

1 approval (after a specified time period) during a past review and should do so again in this
2 proceeding. A full review of the Company's proposal for revenue neutral rate restructuring
3 must occur when such a petition is filed. Furthermore, the Board must retain the ability to
4 review all costs and rates during its review of any revenue neutral restructuring request,
5 including a detailed analysis of the claim of revenue neutrality itself. Among other things,
6 the Board should examine and consider the revenue effects of consumer demand responses
7 to the proposed rate structure changes, and reflect the appropriate price elasticity effects in
8 assessing whether the proposed rate revisions actually satisfy the "revenue neutrality"
9 requirement. Finally, requirements for petitions by VNJ for revenue neutral rate
10 restructuring should remain as they are today.

11
12 **A new sharing formula should be instituted so as to appropriately flow economic benefits**
13 **to ratepayers.**

14
15 Q. Does the Ratepayer Advocate's proposal encompass a recommendation regarding earning
16 sharing?

17
18 A. Yes, in his testimony, Mr. Rothschild recommends that the earnings sharing threshold be
19 lowered to 10% as compared to the 13.7% threshold in the original PAR. This recommend-
20 ation is based upon the fact that the cost of capital is lower now than when the original PAR
21 was adopted.⁶⁷ Mr. Rothschild's testimony shows that while earnings sharing was supposed
22 to start at 13.7% under the current PAR, ratepayers never received a portion of profits in

67. Rothschild (RPA), at 11.

1 excess of the cost of equity even though the average annual return achieved by Verizon
2 stockholders was 14.56% under the term of the current PAR. Mr. Rothschild recommends
3 that the rate of return on equity be calculated on a consolidated basis and that 25% of
4 earnings in excess of a 10% return on consolidated equity be passed on to VNJ ratepayers.⁶⁸
5 In addition, “to the extent that total return (dividend yield plus stock price appreciation)
6 achieved by Verizon common stockholders ... exceeds 10%, 25% of the proportionate value
7 applicable to New Jersey regulated operations should be grossed up for income taxes and
8 then passed on to ratepayers.”⁶⁹ In sum, the sharing formula recommended by Mr.
9 Rothschild is based upon a combination of earnings achieved by common stockholders and
10 earnings on the book equity of Verizon consolidated.

11

12 Q. Why should sharing be included in any new incentive regulation plan that is adopted by the
13 Board?

14

15 A. In general, the sharing mechanism in an alternative regulation plan serves two principal
16 functions. First, it establishes a means by which ratepayers may directly benefit from the
17 efficiency gains that are (presumably) stimulated by alternative regulation. Second, it serves
18 as a “safety net,” providing a check against excessive pricing that may result from a
19 misspecified price adjustment mechanism, since such sharing would result in at least a
20 partial return of any monopolistic earnings that might be acquired by the utility.

68. *Id.* at 15.

69. *Id.*

1 Q. But won't the introduction of an earnings sharing mechanism work against the incentive
2 structure of the plan, i.e., reduce the Company's incentive to increase efficiency and
3 productivity under the plan?
4

5 A. The argument that introduction of an earnings sharing mechanism reduces the Company's
6 incentive to increase its efficiency and productivity under the plan has certainly been raised
7 by telephone companies that understandably do not desire to return *any portion* of their
8 excess earnings to ratepayers. Obviously, any mechanism that attenuates a company's
9 ability to retain all of the financial rewards arising from its management and operation of the
10 business would, at least in theory, work to reduce the firm's incentives to operate as
11 efficiently as possible. A corporate income tax, for example, has this same type of effect.
12 But a corporate income tax, which requires that the firm share its earnings with the
13 government, and a sharing mechanism in an incentive regulation plan which requires that the
14 utility share a portion of its excess earnings with its customers, do not by any means
15 eradicate or eliminate all efficiency incentives. What is without dispute is that VNJ has a
16 clear incentive to retain as much of its earnings as the Board will permit, and thus has a
17 strong incentive to advance whatever arguments it can, flimsy as they may be, against a
18 sharing requirement. The Board should recognize this incentive and afford VNJ's posturing
19 precisely the weight it deserves. In general, an earnings sharing mechanism that allows the
20 utility to retain a significant portion of earnings in excess of what it would be allowed to
21 keep under rate of return regulation is wholly inconsistent with the incentive rationale
22 underlying adoption of the alternative regulation plan.

1 Q. Does the sharing mechanism recommended by Mr. Rothschild apply evenly throughout the
2 term of Ratepayer Advocate's proposal plan?

3

4 A. No, it does not. The sharing mechanism would be tapered to allow the company to retain
5 more of its earnings as competition developed in the local exchange market. As indicated
6 above, if competition remains minimal (i.e. VNJ has 90% or more of the local market), the
7 plan calls for full use of the sharing formula as proposed by Mr. Rothschild. If in any
8 subsequent year of the plan VNJ's market share dropped below 90% up to and including
9 80%, the sharing formula would still be applied, however, only 50% of the result would be
10 passed on to New Jersey ratepayers. Once VNJ's market share drops to below 80% up to
11 and including 70%, only 25% of the full sharing amount would be shared with ratepayers. If
12 and when VNJ's market share falls below 70%, then the Company would no longer be
13 required to share earnings with ratepayers. At that point, the Company should face sufficient
14 competition in the market.

15

16 **The Ratepayer Advocate plan will ensure just and reasonable rates to consumers in New**
17 **Jersey both at the outset of the plan and on a going-forward basis.**

18

19 Q. Does the Ratepayer Advocate's proposal ensure that just and reasonable rates are established
20 at the outset of PAR-2?

21

22 A. Yes, it does. The proposal includes a one-time rate reinitialization in the form of a rate
23 reduction and refund as calculated by Mr. Rothschild. The Board should reduce, or

1 “reinitialize,” VNJ’s rates at the outset of any new plan. The Ratepayer Advocate’s plan
2 includes an immediate rate reduction of \$175-million. This reduction is calculated by
3 Ratepayer Advocate witness Rothschild and reflects over earnings of \$56-million and an
4 additional \$119-million to reflect half of the estimated merger savings inuring to VNJ.⁷⁰ As
5 discussed in the testimony of Ratepayer Advocate witness Douglas Williams, the revenue
6 reduction would best be implemented by consolidating rate centers and expanding local
7 calling areas with no increase to residential rates. Finally, Mr. Rothschild recommends that
8 the Board order a one-time \$53-million refund to reflect half of the estimated cumulative
9 merger savings inuring to New Jersey intrastate regulated operations.

10
11 Q. Please provide some detail regarding the Ratepayer Advocate’s plan for reducing VNJ’s
12 revenues.

13
14 A. This portion of the Ratepayer Advocate’s plan is detailed in the testimony of Douglas
15 Williams, so I will provide only a summary here.

16
17 The Ratepayer Advocate recognizes the significant consumer and economic benefits that
18 would result from expanding the extraordinarily small local calling areas that currently exist,
19 particularly in northern New Jersey, and agrees with the Board’s obvious concern that such

70. *Id.* at 7.

1 plans be analyzed and implemented in this proceeding.⁷¹ Verizon has responded to the
2 Board's concern by suggesting a solution under which one or two toll mileage bands would
3 be converted to local rate treatment, but with all existing rate centers remaining intact.
4 However, rather than simply expanding calling areas by eliminating toll bands, local calling
5 areas could be expanded by consolidating rate centers. This approach offers the additional
6 benefit of conserving the state's numbering resources by reducing the total number of rate
7 centers and in so doing reducing the demand for NXX codes and (when available)
8 thousands-blocks of numbers. Mr. Williams recommends that the existing 180 VNJ rating
9 areas be consolidated into 21 rate centers, roughly corresponding to county boundaries.
10 Under this alternate approach to expanding local calling, not only will consumers realize the
11 benefits of larger local calling areas, the significant drain on New Jersey's (and, indeed, the
12 nation's) numbering resources will also be abated.
13
14 Under the current system for assigning telephone numbers, a carrier must obtain a block of
15 numbers (10,000 today and, in the future, 1,000) in each and every rate center in which that
16 carrier seeks to provide service. Thus, a carrier seeking to address customers throughout
17 New Jersey would require a presence in all 180 rate centers which, at 10,000 numbers per
18 rate center, would mean a minimum of 1.8-million telephone numbers. With only 7.8-
19 million telephone numbers available for assignment in each area code, it is easy to see why
20 New Jersey has advanced from 3 area codes to 9 in just the past 6 years. Consolidating rate
21 centers eliminates the need to dole out huge quantities of numbers to carriers, and permits

71. December 22, 2000 Order, at 6.

1 carriers to increase the utilization of the numbers they are assigned. There is good reason to
2 believe that an aggressive rate center consolidation plan would eliminate the need for the
3 Board to seek yet more area codes in the future.⁷²

4
5 Following the consolidation of rate centers into 21 county-wide rating areas, local calling
6 areas would be expanded to embrace all communities within the new rate center, as well as
7 all (newly) contiguous rate centers, and would thus be substantial enough so as to benefit all
8 customers in New Jersey. And, unlike Verizon's proposed plans that are "revenue-neutral"
9 and require an increase in basic service rates to offset the elimination of toll and switched
10 access revenues, the Ratepayer Advocate's plan would serve as the mechanism for achieving
11 the required reduction in Verizon's revenues. Therefore, no rate increase would be
12 implemented for residential customers, and Verizon's revenues would be reduced by virtue
13 of the foregone toll and access revenue.⁷³

72. The FCC has adopted so-called "thousands-block number pooling," under which number assignments are made in blocks of 1,000 rather than as full 10,000-number NXX codes. However, pooling is still confined to a single rate center, and numbers that are not assigned in one rate center cannot be used elsewhere. Thus, if only two carriers request numbers in a particular rate center and each is assigned a block of 1,000 numbers, that still leaves 8,000 numbers "stranded" and unusable. Rate center consolidation would substantially reduce this problem, and would have a far greater impact on conserving number resources that would thousands-block pooling. In any event, thousands-block pooling has not yet been implemented in New Jersey.

73. As discussed in Mr. Williams' testimony, Verizon is in sole possession of the data required to determine the revenue impact of the Ratepayer Advocate's plan, and has not provided this data in response to the Ratepayer Advocate's data request. *See*, VNJ's response to RPA-364. Therefore, some adjustment to the plan for consolidating rate centers and expanding calling areas may be necessary in order to meet the targeted \$175-million revenue reduction.

1 Q. Why is it essential that rates be reinitialized before the new plan is implemented?

2

3 A. I believe that, at the outset of any new plan, the Board must first determine that “going in”
4 rates are in fact just and reasonable. Applying the sharing and rate adjustment mechanisms
5 in subsequent years, if necessary, will ensure that if competition does not develop at a level
6 sufficient to discipline prices, ratepayers will still realize a portion of the efficiency gains
7 that incentive regulation will have stimulated and that competition, had it developed, would
8 have flowed through in the form of lower prices. However, rates must be found to be just
9 and reasonable at the outset. Clearly, Mr. Rothschild’s analysis shows that the current PAR
10 has not resulted in just and reasonable rates for VNJ’s noncompetitive services.

11

12 Q. How would the Ratepayer Advocate’s plan ensure that rates remain just and reasonable
13 going forward, i.e., after rates have been reinitialized?

14

15 A. This plan ensures such a result through the use of both sharing and a rate adjustment
16 mechanism.

17

18 Q. Please describe the rate adjustment mechanism in more detail.

19

20 A. The rate adjustment mechanism would be applied to Basket 2 (non-RBES, residential)
21 services. I am proposing that the total price of the services in Basket 2 should be reduced by
22 \$1.00 in each year that the full rate adjustment is applied. Additionally, the rate adjustment

1 mechanism would also be tapered, in a manner similar to that described above with respect
2 to sharing. For instance, in the first year (since VNJ currently has a market share of over
3 90%) the full rate adjustment of \$1.00 would be applied. However, once CLECs capture
4 more than 10% of the market up to and including 20%, the annual rate adjustment for Basket
5 2 services will be cut in half, i.e., to \$0.50. When VNJ's market share is greater than or
6 equal to 70% but less than 80%, the Basket 2 prices are not adjusted, but simply are capped
7 at the current levels. Basket 2 prices are fully deregulated (and are thus free to move in any
8 direction) when VNJ's market share falls to is greater than or equal to 60% but less than
9 70%, and Basket 1 services are fully deregulated once Verizon's market share exceeds 60%.

10

11 Q. Is there any reason to believe that the rate adjustment mechanism advocated by the
12 Ratepayer Advocate will harm VNJ financially?

13

14 A. No. VNJ's existing prices generate a substantial contribution in excess of cost for its
15 residential services, an amount that is well in excess of the modest annual price decreases
16 that would be required in the event that actual competition in the residential market fails to
17 develop. As competition develops and VNJ begins to be constrained by the market, the plan
18 eases the regulatory constraints on the Company. If competition does not continue to
19 develop (i.e., VNJ retains its 90%-plus share of the residential market after five years), the
20 Board should consider a return to rate of return regulation. On the other hand, if after five
21 years (or even sooner), competition has developed to the point that even the cap on Basket 1

1 has been lifted, the Board should convene a proceeding to address how to maintain
2 affordable rates for New Jersey residential consumers.

3

4 **VNJ should be prohibited from engaging in any joint marketing with or making referrals**
5 **of its local exchange service customers to affiliates that provide competitive services, or in**
6 **the alternative, the Company should be required to impute and to flow-through to**
7 **customers of its rate regulated services the full market value of all joint marketing benefits**
8 **that it provides to its affiliates.**

9

10 Q. Earlier you referred to Ms. Alexander's recommendation that VNJ be prohibited from
11 engaging in any joint marketing activities with or on behalf of its affiliates. Do you agree
12 with that recommendation?

13

14 A. Yes. I fully concur with Ms. Alexander's recommendation that the Board should, as a
15 condition for approval of any PAR, expressly prohibit any joint marketing of or referrals by
16 VNJ of its local exchange service customers to affiliates that provide competitive services.

17

18 Q. As an alternative, however, are there other remedies available to the Board that would be
19 consistent with the type of incentive regulation that should be adopted under the PAR-2
20 plan?

21

22 A. Yes. The ability of VNJ to use its near-monopoly position in the *local* market to acquire
23 customers in adjacent DSL, Internet, (and following Section 271 approval) long distance
24 and, potentially, other competitive markets as well, is extraordinarily valuable to the
25 Company and to those nonregulated affiliates that offer competitive products and services.

1 If VNJ is permitted to engage in joint marketing with these affiliates and/or to provide
2 referrals of its basic local exchange service customers to its affiliates or otherwise sell or
3 recommend its affiliates' services, the affiliates should be required to compensate VNJ for
4 the economic value of those "referrals" of VNJ local service customers that are sent their
5 way. Moreover, under the PAR, such compensation must be flowed through directly and in
6 its entirety to customers of VNJ's noncompetitive rate regulated services *irrespective of the*
7 *other aspects of the PAR-2 rate adjustment mechanism.* Alternatively, the Board should
8 impute the economic value of these referrals as revenues to VNJ and require that such
9 imputed revenues be flowed through to VNJ ratepayers.

10
11 Q. Why do you recommend that the economic value to the affiliates of referrals from VNJ be
12 flowed through to customers of VNJ rate-regulated services irrespective of the PAR-2 rate
13 adjustment mechanism?

14
15 A. Under either the VNJ or the Ratepayer Advocate PAR-2 proposals, the Company would be
16 permitted to retain either all (in the case of the VNJ plan) or most (in the case of the
17 Ratepayer Advocate plan) of any additional earnings it is able to achieve in excess of the
18 authorized rate of return. If payments for referrals by affiliates, or imputations of such
19 amounts, were to be melded with any other revenues and combined into VNJ's aggregate
20 earnings under PAR-2, the practical effect of either the explicit payment or imputation
21 would be to shift the money, as it were, from one Verizon pocket into another Verizon
22 pocket, thereby rendering the payment or imputation requirement a hollow exercise having

1 no financial cost to Verizon or its shareholders and conferring no benefit to customers of
2 VNJ's rate regulated services. If VNJ is permitted to confer this enormous marketing and
3 economic advantage solely and exclusively upon its affiliates, *which it should not*, the
4 Company should not be allowed to include these "payments" within its overall revenues and
5 earnings structure.

6

7 Q. What is the source of the value that you ascribe to these referrals?

8

9 A. As a direct consequence of its overwhelming dominance of the local telephone service
10 market, VNJ receives hundreds of thousands, if not millions, of "inbound calls" annually
11 that are initiated by customers to transact some business with the incumbent LEC pertaining
12 specifically to those customers' basic local exchange service. These calls may be placed by
13 customers to order local exchange service for a new home or apartment, to order an
14 additional access line, to order one or more optional features, to inquire about a billing issue,
15 or to inquire about an affiliate-provided service where Verizon advertising does not clearly
16 differentiate VNJ from, for example, Verizon OnLine (the retail DSL/Internet access
17 affiliate), Verizon Advanced Data, Inc. (the DSL affiliate), or (following Section 271
18 approval) Verizon Long Distance (the interLATA long distance affiliate that would
19 commence operations in New Jersey once the Company is authorized to offer in-region long
20 distance services).

21

1 Q. Why do you believe that these “joint marketing” activities, including and especially
2 Verizon’s practice of referring its local service customers to its affiliates for Internet and
3 (following Section 271 approval) for long distance service, should not be permitted?
4

5 A. To the extent that a BOC like VNJ maintains a *de facto* monopoly with respect to the
6 provision of *local* services in part or in all of any state (in which it may have received
7 Section 271(c) authorization), the effect of this preemptive joint marketing opportunity is to
8 permit the BOC to extend its local monopoly into the adjacent — and otherwise competitive
9 — long distance market. As long as VNJ retains its *de facto* monopoly with respect to basic
10 local exchange services – particularly in the residential market – its ability to exploit its
11 preexisting and near-ubiquitous relationship with customers of its monopoly services will
12 afford it the ability ultimately to remonopolize the adjacent, currently competitive market.
13

14 Put another way, the larger the BOC's share of the *local* market, the greater will be its
15 opportunity to preemptively market its affiliate's competitive services. And if customers
16 exhibit a disproportionate propensity to select VNJ as their DSL and (following Section 271
17 approval) their long distance carrier as a result of this “first to get there” opportunity, then
18 over time Verizon’s DSL and long distance market shares would also be expected to grow
19 *directly and specifically as a consequence of its ability to preempt competing carriers in*
20 *signing up new customers*. If this kind of marketing practice continues, then the Board
21 should contemplate initiating a proceeding to consider whether additional safeguards and
22 remedies are required in order to maintain competition and limit VNJ’s ability to engage in

1 anticompetitive use of its preexisting relationships with monopoly local service customers to
2 remonopolize adjacent competitive markets.

3

4 Q. Is it possible to quantify the value to Verizon's competitive services affiliates arising from
5 VNJ's ability to make these "recommendations" to customers who contact VNJ for the
6 purpose of ordering *local* service or otherwise transacting business with VNJ pertaining to
7 basic *local* service?

8

9 A. Yes. At the time of the initial local service contact, the BOC need spend little if any
10 resources actually advertising or otherwise marketing its other services. The inbound caller
11 has already made the contact with "the phone company" for basic telephone service and,
12 unless that customer is a student of telecommunications industrial organization and
13 regulation, he or she is as likely as not to accept the BOC's "recommendation" as the only
14 and obvious choice.

15

16 The Board should develop evidence as to the cost that competing providers of services
17 offered by VNJ affiliates regularly spend to acquire customers,⁷⁴ and should impute those
18 amounts for all sales or referrals of affiliates' competitive services that are made for inbound
19 customer-initiated contacts to VNJ local service customer service representatives.

74. One source, for example, put the cost to an IXC of acquiring a new retail long distance customer at "up to \$300 to \$600 in sales support, marketing and commissions." See Borna, Claude, "Combating Customer Churn," in *Business and Management Practices*, Vol. 11, No. 3; Pg. 83-85; ISSN: 0278-4831, Horizon House Publications, Inc., Telecommunications Americas Edition (March, 2000).

1 **The Board should reject VNJ's PAR-2 plan as proposed, and adopt in its place the**
2 **recommendations put forth by the Ratepayer Advocate.**

3

4 Q. Dr. Selwyn, what is your final recommendation regarding the manner in which VNJ should
5 be regulated going forward?

6

7 A. The Board should reject VNJ's alternative regulation plan as proposed. VNJ has failed to
8 show that its proposed plan meets the statutory requirements set forth in NJSA 48:2-
9 21.18(a)(1)-(8). Instead, if the Board does adopt an alternative regulation plan for VNJ, it
10 should adopt the Ratepayer Advocate's proposal. The Ratepayer Advocate's plan, described
11 above and in the testimony of other Ratepayer Advocate witnesses, will better satisfy the
12 statutory standards and goals of alternative regulation.

1 VERIZON'S PETITION TO RECLASSIFY
2 MULTILINE BUSINESS SERVICES AS COMPETITIVE
3

4 **Verizon's characterization of multiline business as consisting of any service involving more**
5 **than a single business access line is an inappropriate benchmark for reclassification.**
6

7 Q. Dr. Selwyn, please summarize your understanding of Verizon's Petition to reclassify its
8 multiline business services as competitive.
9

10 A. As part of its February 15, 2001 filing, Verizon filed a separate petition with the Board to
11 reclassify its currently rate-regulated multiline business services as "competitive" pursuant to
12 N.J.S.A. 48:2-21.19. These services include switched local services, switched ancillary
13 services, "other" ancillary services, and private line service.⁷⁵
14

15 Q. As a threshold matter, should multiline business services even be considered for
16 reclassification as competitive at this time?
17

18 A. No. Multiline business services should not be reclassified as competitive, because the
19 existing cost/revenue relationships for business services is unknown. As I discussed earlier,
20 in my testimony with respect to VNJ's subsidy analysis, residential service revenues exceed
21 these services' corresponding costs by a significant margin, yet a comparable analysis with
22 respect to business services is not possible because VNJ had refused to provide the data

75. Shooshan/Weber/Taylor (VNJ), at 13-16. For simplicity's sake, in the remainder of my testimony I will refer to Dr. Taylor and Messrs. Shooshan and Weber as "the VNJ witnesses."

1 necessary to make such a calculation. Until such time as these cost/revenue relationships for
2 residential and business services are addressed and resolved by the Board so as to bring their
3 relative contribution levels closer to equality, business service reclassification should not be
4 considered.

5

6 Q. How does VNJ define “multiline business” for purposes of its Petition to Reclassify?

7

8 A. According to the VNJ witnesses, “Verizon NJ seeks to reclassify the business local exchange
9 services associated with multiple line business customers ... This reclassification will not
10 affect the classification of currently rate regulated services provided to single line business
11 customers.”⁷⁶ VNJ’s definition of “multiline business” appears to include all customers with
12 two or more business dial tone access lines, although not specifically stated.⁷⁷

13

14 Q. Separate and apart from your overarching concern regarding the reclassification of multiline
15 business services, do you nevertheless agree that were such reclassification to be allowed
16 this “two-line” level is the appropriate demarcation between “monopoly” and “competitive”
17 business services?

18

19 A. No, I do not. While the plain meaning of the term “multiline” connotes more than a single
20 line, for the purposes of assessing the competitiveness of business services, the term

76. *Id.* at 12.

77. *See*, VNJ responses to RPA-170, 176, 177, and 208.

1 “multiline business service” must be equated with those customers who purchase a sufficient
2 number of access lines that they confront realistic competitive alternatives to VNJ dial tone
3 line service. I believe that a realistic quantity of service at which realistic competitive
4 choices become available occurs at the point where a given customer can economically
5 justify the use of a T-1 digital trunk in place of individual analog access lines. Generally,
6 this would require that the customer (a) have an on-premises digital PBX or equivalent
7 telephone system (so that separate digital-to-analog conversion equipment is not required),
8 and (b) be using a sufficient number of individual line-equivalent (DS-0) channels that a T-1
9 trunk which provides up to 24 such channels, is the least expensive solution. This will
10 generally occur where the customer is using somewhere in the range of 12 to 16 individual
11 dial tone lines or their equivalent.

12

13 Q. What is the relevance of setting the minimum quantity of access lines at the T-1 level?

14

15 A. There is a very thin margin available to CLECs that seek to provide resold or UNE-based
16 service to those business customers that require individual analog (“POTS”) access lines.

17 The reason for this is because the cost of the underlying facilities (i.e., the wholesale service

18 or unbundled network elements) is set very close to the current retail rate,⁷⁸ and the

19 economics of the network require CLECs that serve smaller business customers to purchase

78. Of course, the UNE rates in New Jersey are being set in a concurrent proceeding in BPU Docket No. TO00060356.

1 these underlying facilities on a one-to-one basis with respect to the number of lines served.⁷⁹
2 At some point, the cost associated with the purchase of a certain number of individual lines
3 will exceed the cost of purchasing and serving customers via a single high-capacity facility,
4 such as a T-1 (DS-1)-capable 4-wire UNE loop.⁸⁰ Use of a VNJ UNE loop to provide T-1
5 service generally requires that the CLEC incur certain additional costs for the electronics
6 necessary to terminate the digital service both at the customer end and at the CLEC's
7 facility. This economic "crossover" point between "POTS" and T-1 service is probably in
8 the 12 to 16 line range, which is to say that customers requiring 16 or more lines can usually
9 be more economically served over a high-capacity-provisioned 4-wire UNE loop with
10 associated electronics as compared to the use of individual wholesale facilities for each line.
11 The primary benefit of serving customers over a high-capacity-provisioned 4-wire UNE loop
12 is that it greatly increases the opportunity for the CLEC to increase its revenue margin over
13 that available on a single-facility-per-line basis. Moreover, CLECs that offer T-1 based
14 services will typically provide their own switching facilities, further increasing the overall
15 margin between what they are able to charge their customers and what they will have to pay
16 to VNJ.
17

79. For example, a CLEC serving a small business with 3 lines will either purchase 3 lines at wholesale or purchase three UNE loops/UNE platforms, and resell the service to the customer.

80. Through a conditioning process, a 4-wire unbundled loop can be equipped with electronics that permit transmission speeds of 1.544 Megabits per second, equivalent to that of a DS-1 line. A DS-1 line is technically capable of serving as many as 24 voice grade equivalent lines.

1 An example will assist in providing some clarity to this issue. Assume customers A, B, C
2 and D each require 13, 14, 15 and 20 voice-grade equivalent lines, respectively, and that the
3 average total price the customer pays for business service is \$12 per line. Assume further
4 that the single loop monthly UNE rate is \$10, and that the monthly cost of a 4-wire UNE
5 loop, with associated electronics to allow for high-capacity equivalency, is \$140.

6
7 For customer A, the cost of \$130 for 13 analog UNE loops generates \$156 in revenue, which
8 provides the CLEC with a 20% operating margin $[(\$156-\$130)/\$130]$. In the case of
9 Customer B, the cost of serving 14 individual lines ($14 \times \$10 = \140) is identical to the \$140
10 cost that the CLEC would have to make to VNJ for the a high-capacity 4-wire UNE loop and
11 for the associated electronics, and the 20% margin would apply here as well $[(\$168-$
12 $\$140)/\$140]$. Fourteen lines is, in this example, the effective crossover point. Customer C
13 is more efficiently served via the high-capacity 4-wire UNE loop, because the \$140 payment
14 to VNJ along with the cost of the electronics generates revenue of \$180, which increases the
15 revenue margin from 20% to 29%. As more lines are provided to Customer D, the margin
16 available to the CLEC increases dramatically, owing to the lower per-line costs attributable
17 to the high-capacity 4-wire UNE loop facility. The CLEC's potential margin for Customer
18 D is calculated to be 71% $[(\$240-\$140)/\$140]$. As is evident, under the 4-wire UNE loop
19 scenario, the potential margin grows at a faster rate with each additional line provided to
20 each customer beyond the crossover point. For this reason, one would expect much more
21 competition for larger customers than for the customer that must, for economic reasons, be
22 served via single line wholesale service. In the context of reclassifying noncompetitive

1 services to competitive, any definition of multiline business services must relate to business
 2 customers for which providing service is economically efficient at a high-capacity DS-1
 3 level or above. The lower margins available to CLECs serving smaller customers are
 4 insufficient to sustain competition, particularly following reclassification of business
 5 services. Table 4 illustrates these examples.

7 **Table 4**
 8
 9 **CLEC Margins Increase When Larger Customers Are**
 10 **Served Via T-1 Equivalent Loops**
 11 (rates shown are for illustrative purposes only)

Customer	No. of Lines	Cost via Individual UNE Loops @ \$10/Loop	Cost via T-1 capable 4-wire UNE Loop @ \$140/Loop	Revenue at \$12/ Business Line	Margin via Individual UNE Loop		Margin via 4-wire UNE Loop	
					\$	%	\$	%
A	13	\$130	\$140	\$156	\$26	20%	\$16	11%
B	14	140	140	168	28	20	28	20
C	15	150	140	180	30	20	40	29
D	20	200	140	240	40	20	100	71

23 Of course, because of the higher margins available and the entry of competition in response
 24 thereto, the retail price that will be charged by CLECs (and, potentially, by the ILEC) for the
 25 T-1 grade service will likely be bid down toward a competitive level. Thus, instead of
 26 charging the 20-line customer the same \$12 per line that would apply for a single channel,
 27 the market price might, for example, decrease to, say, \$200 from the original \$240.

28 Customers would be attracted to this service offering because it is less expensive on a per

ALLEGEDLY PROPRIETARY DATA
 HAS BEEN DELETED

1 line basis, and the higher relative profit margins available to CLECs even at the reduced
2 price level will work to instill customer interest in this offering.

3

4 The cost of serving customers using digital T-1 based services is also affected by the type of
5 customer premises equipment (CPE) that the customer is using. For customers with digital
6 PBXs, the T-1 trunk can be connected directly to the digital switch, with no digital-to-analog
7 conversion being required at the customer's premises. If the customer requires analog
8 service, then the carrier would need to provide D/A and A/D conversion, which would
9 probably eliminate the use of a T-1 line for most practical purposes. The point is that even
10 where CLEC alternatives for multiline business services are offered, not all customers can
11 beneficially use them, and it would thus be factually wrong to summarily categorize all
12 multiline business services as "competitive."

13

14 Q. In New Jersey, is there more competition for larger business customers than for smaller
15 business customers?

16

17 A. I cannot state with certainty that this is in fact the case, but for obvious economic reasons in
18 addition to those described above, it is widely held that competitors initially target larger
19 business customers. What I can say with certainty is that VNJ's Petition is devoid of data
20 that indicates that small business customers are being served by CLECs in comparable
21 percentage terms as compared to large business customers. When considering any Petition
22 for Reclassification, the Board must ensure that all classes of customers are impacted by

1 competitive entry, such that if a particular reclassification is granted, market dynamics do
2 not adversely impact any particular group of customers. Verizon's Petition for
3 reclassification of multiline business services does not demonstrate that small business
4 customers (e.g., those in the 2-16 line range) are currently being served by competitors at a
5 level that offers protection from monopolistic market practices that could be imposed by
6 VNJ following reclassification of these services as competitive. While competitors certainly
7 can serve customers with very few lines, the high VNJ prices for the underlying services and
8 resulting low profit margins work to create the condition where there is little opportunity for
9 effective, price-constraining competition to occur for these types of customers. In addition,
10 of course, by providing the underlying wholesale facilities, Verizon preserves a large portion
11 of its revenues despite what could be considered to be "lost" (retail) customers. Verizon's
12 Petition for reclassification of multiline business services as competitive fails to assure that
13 all business customer classes experience competition at a level that will ensure adequate and
14 continuing price protection following reclassification. The Petition must therefore be
15 rejected.

16

17 **Verizon has failed to demonstrate that small business customers are being served by**
18 **competitors at the wire center level.**

19

20 Q. What standards did VNJ employ when considering the reclassification of regulated services
21 to the "competitive" category?

22

1 A. The relevant statute authorizing the Board to determine whether or not a telecommunications
2 service is competitive states:

3 (b) The board is authorized to determine, after notice and hearing, whether a
4 telecommunications service is a competitive service. In making such a deter-
5 mination, the board *shall develop standards* of competitive service which, *at a*
6 *minimum*, shall include evidence of ease of market entry; presence of other
7 competitors; and the availability of like or substitute services in the relevant
8 geographic area.⁸¹
9

10 In providing support for the reclassification of multiline business services, Verizon has once
11 again incorrectly interpreted the statute to mean that *only those three requirements*
12 *specifically identified in the statute* (presence of competitors, ease of market entry, and
13 existence of substitutes) must be met in order to sustain that a service is competitive.⁸² In
14 fact, the statute plainly states that the Board “shall develop standards” that will *include* these
15 three criteria “*at a minimum.*” Contrary to Verizon’s contention, the Board has every right
16 to augment its analysis beyond the three minimum standards to determine whether or not
17 certain services should be reclassified as competitive. As I will discuss later in my
18 testimony, there are several other criteria upon which the Board should rely in determining
19 service reclassification. Even though the three standards itemized within the statutes
20 represent the bare minimum requirements for competitive reclassification, VNJ has failed to
21 provide sufficient evidence to allow the Board to conclude that even these minimum
22 requirements have been satisfied in the case of multiline business services.
23

81. N.J.S.A. Section 48:2-21.19 (emphasis added).

82. Shooshan/Weber/Taylor (VNJ), at 19.

1 Q. When considering reclassification, is it necessary to analyze all four multiline business
2 service groups as identified by VNJ?

3

4 A. No. When assessing the extent to which these services proposed for reclassification have
5 met the statutory requirements, it is only necessary to examine switched local and private
6 line services. VNJ witnesses Taylor, Shooshan and Weber acknowledge that switched
7 ancillary and “other” ancillary services are dependent upon one of the switched services;⁸³
8 therefore, if switched services do not qualify for reclassification as “competitive,” then
9 neither would either of these other groups of services.

10

11 **CLEC penetration rates at the wire center or exchange level is the appropriate metric in**
12 **determining competitiveness in the market.**

13

14 Q. What is the relevant geographic market when assessing the level of competition available to
15 multiline business customers?

16

17 A. The relevant geographic area must be at the wire center level rather than a statewide basis as
18 asserted by VNJ,⁸⁴ since the presence of “competition” in one community does nothing to
19 protect consumers in a different community in which no alternative provider is presently

83. *Id.* at 14.

84. *Id.* at 31.

1 offering service.⁸⁵ In presenting “head-count” data, VNJ attempts to gloss over the fact that
2 a competitive presence in a particular wire center may in many cases amount to a fraction of
3 one percent of the total lines served in that wire center, and thus do not currently
4 demonstrate the existence of competitive alternatives to VNJ services. Should VNJ be
5 granted the ability to have all multiline business services in all parts of the state reclassified
6 as competitive, customers in those regions with little to no competitive entry would be held
7 hostage to whatever rate changes VNJ deemed appropriate. Competitive entry at the
8 exchange level in New Jersey is critical to the Board’s assessment as to whether or not the
9 multiline business service market *that customers participate in* exhibits the characteristics of
10 price-constraining competition. In assessing the level of competition on the wire center
11 basis, one must examine the number of lines served by competitors in each wire center.

12

13 Q. Does Verizon attempt to make such a demonstration?

14

15 A. No. Although Verizon does provide data on a wire center basis in this filing, the Company’s
16 analysis and conclusions once again rely solely upon “head counts” of the data points in an
17 effort to demonstrate the ubiquity of competitive entry in New Jersey. It is insufficient to
18 simply demonstrate that most of the wire centers have a CLEC collocated there, or that at

85. This position was corroborated in an recent Hearing Examiner’s Proposed Order with respect to Ameritech Illinois’ attempt to reclassify business and residence services as competitive. *Illinois Commerce Commission On Its Own Motion vs. Illinois Bell Telephone Company, Investigation into Specified Competitive Tariffs to Determine Proper Classification of the Tariffs and to Determine Whether Refunds Are Appropriate, Illinois Commerce Commission Docket No. 98-0860, Hearing Examiners’ Proposed Order, March 30, 2001 (“Illinois HEPO”), at 11.*

1 least one line is served via resale or some form of facilities-based competition.⁸⁶ As I will
2 discuss in the next section of my testimony, VNJ's head count data fails to properly
3 demonstrate the existence of "competitive presence," let alone establish the "presence of
4 competition," which is a far more important standard when considering service
5 reclassification. As my testimony will demonstrate, analysis of the appropriate metrics
6 demonstrates the distinct lack of competition in the majority of the state. For this reason, the
7 Board should dismiss VNJ's claims that multiline business services are competitive
8 throughout all of the Company's service area.

9

10 **It is incorrect to conclude that the presence of competitors equates to the presence of**
11 **competition.**

12

13 Q. Is the "presence of competitors" standard a sufficient metric in determining whether or not to
14 reclassify business services as competitive?

15

16 A. No. The mere presence of competitors does not translate into the presence of price-
17 constraining competition, which is the more relevant standard upon which the Board should
18 rely in considering the reclassification of multiline business services as competitive.

19

20 Q. You have stated that Verizon provides various "head counts" to demonstrate the presence of
21 competitors. Upon what data does the Company rely?

86. Shooshan/Weber/Taylor, at 47-55. The specific data presented by VNJ will be critiqued in the next section of my testimony.

1 A. According to the VNJ witnesses, competitors are considered to be present in the market “if
2 they are actively selling or reselling the services in question.” The witnesses provide a count
3 of certified CLECs and state that all resale, UNE and facilities-based competitors
4 demonstrate competitive presence, and that the placement of network facilities by CLECs is
5 also compelling evidence of market presence.⁸⁷ According to the VNJ witnesses,
6 “[c]ompetitors do not undertake the time and expense to place facilities without any
7 intention of providing services and, thus, the mere existence of such facilities proves that the
8 risks of this capital deployment are outweighed by the market and profit benefits.”⁸⁸

9

10 Q. Do you agree?

11

12 A. Only in part. As I discussed in my testimony in the CTP case,⁸⁹ the relevant market for a
13 given consumer is the wire center from which local service is provided. I agree that CLECs
14 currently providing service via resale, UNEs or their own facilities do have a market
15 presence in the wire centers in which they provide service. However, a CLEC that does not
16 for whatever reason serve a particular wire center could not be included in a count of
17 competitors in that market. The presence of competitors in wire center B on the other side of

87. Shooshan/Weber/Taylor (VNJ), at 20-21.

88. *Id.* at 21.

89. In the Matter of the Application of Bell Atlantic-New Jersey, Inc. for Approval of a Modified Plan for an Alternative Form of Regulation and to Reclassify All Rate Regulated Services as Competitive Services, NJ BPU Docket No. TO99120934, *Direct Testimony of Lee L. Selwyn*, August 9, 2000, at 8, 21-23, 45-46.

1 the state has no relevance when assessing the competitive choices faced by the consumer
2 whose service is furnished out of wire center A.

3
4 I disagree with VNJ's assertion that simply because a CLEC has deployed network facilities,
5 it is capable of entering the market. Take, for example, Winstar, the most recent casualty on
6 the local market battlefield. According to the information appearing in Attachment 11 of the
7 testimony of the VNJ witnesses, Winstar is a national provider of fixed wireless services that
8 maintains 39 Ghz wireless licenses covering 193 of VNJ's wire centers. Moreover, Winstar
9 has two switches in New Jersey, a broadband service that provides business customers with
10 local and long distance telephony and high-speed Internet access, data and information
11 services, and agreements with at least two dark fiber wholesalers that permit it to serve "a
12 number of lines" using its own facilities, VNJ unbundled network elements, ported numbers,
13 resale and collocation.⁹⁰ Winstar certainly fits the description of a "competitor" according to
14 the Verizon witnesses, based not only on its use of UNEs and resold lines but also on the
15 extensive capital investment in its own facilities. Since the preparation of the Company's
16 testimony, however, this highly capable "competitor" in New Jersey has filed for
17 bankruptcy.⁹¹ Clearly, there is more than capital investment involved in becoming (and
18 remaining) a competitor in New Jersey.

90. Shooshan/Weber/Taylor (VNJ), Attachment 11, at 12.

91. "Winstar Blames Lucent For Bankruptcy, Says It Was 'Seduced By Promises'", TR Daily, April 18, 2001.

1 Indeed, several firms with extensive collocation presence have also either vanished
2 altogether or are in serious financial trouble, directly and adversely impacting their ability to
3 offer serious competitive challenges to ILECs such as VNJ. NorthPoint, which Verizon had
4 actually planned to acquire, went into a nosedive immediately following Verizon's decision
5 to pull out of the deal. Covad and Rhythms, two "data CLECs" with ambitious plans to
6 compete with ILECs in the xDSL market *using ILEC UNE facilities*, are both in serious
7 financial difficulty. Indeed, Wall Street's prior infatuation with these and other CLECs has
8 all but evaporated, and it is becoming extremely difficult for CLECs to raise any significant
9 amount of capital with which to grow and compete with ILECs.

10
11 Q. The VNJ witnesses contend that any carrier should be considered a competitor "if they have
12 existing customer relationships that permit them to diversify from a related product or
13 adjacent geographic market into the market in question."⁹² Do you agree?

14
15 A. Certainly not. Verizon seeks to classify any carrier in *any* telecommunications market with a
16 current customer relationship as a "competitor" in the local exchange market "if they *can*
17 rapidly provide local services."⁹³ This clearly contradicts the concept that competitors must
18 be *present* in the market today in order for services to be considered for competitive
19 reclassification. The Board should pay no heed to the fact that services may one day in the
20 future become competitive *if* certain carriers seek to enter markets in which they currently

92. Shooshan/Weber/Taylor (VNJ), at 22.

93. *Id.* (emphasis added).

1 see no economic benefit.⁹⁴ These carriers can therefore not be considered competitors by
 2 any definition relative to the purpose of reclassifying services as competitive.

3

4 Q. On page 44 of the VNJ witnesses' testimony, they claim that competitors serve "numerous
 5 business customers" as evidenced by the 220,500 business E911 listings and 110,573 resold
 6 business lines attributed to CLECs. Do you agree that this demonstrates the presence of
 7 competitors?

8

9 A. On its face and as a statewide average, this 331,073 figure would suggest CLEC market
 10 share of BEGIN PROPRIETARY<< [REDACTED] >>END PROPRIETARY
 11 business access lines in New Jersey.⁹⁵ However, it is not entirely clear that the E911 data
 12 base provides an accurate indication of CLEC shares of actual access lines, and in any event
 13 the aggregate figure teaches nothing as to the *locations* in which CLEC entry has occurred.
 14 It also teaches nothing about the type of competition that exists for a given customer
 15 identified in the E911 data base as being served by a CLEC – that is, via resale of bundled
 16 VNJ service, via UNE-P, via a combination of VNJ UNEs and CLEC facilities, or entirely
 17 via CLEC facilities.

94. As is discussed later in my testimony, Verizon relies heavily upon the alleged presence of competitors when making its case for the availability of like and substitute services. Certainly, these carriers who provide "a related product" in an "adjacent geographic market" must be excluded from consideration when the Board attempts to draw a conclusion regarding the actual availability of like or substitute services.

95. ARMIS, 43-08:Table III. Access Lines in Service by Customer, 2000; Shooshan/Weber/Taylor (VNJ), at 44 and CD #9, Attachment 11, File: midatlanticlnp01012001.xls.

1 Q. In what respects does the E911 data base not provide an accurate count of CLEC *access*
2 *lines*?

3

4 A. The E911 data base consists of individual *telephone numbers* identifying the caller to the
5 E911 emergency response system. For most residential and single line business customers,
6 there is generally a one-for-one correspondence between an access line and a telephone
7 number. As acknowledged by VNJ, this is not necessarily the case for multiline or other
8 “complex” business service configurations.⁹⁶

9

10 In some cases, a single telephone number may be associated with an entire group of PBX
11 trunks. VNJ might, for example, have a PBX trunk customer with 100 trunks all of which
12 share the same “listed directory number” (“LDN”) and all of which report the same calling
13 number (the LDN) on an E911 call. In this example, the E911 data base would *understate*
14 the quantity of VNJ access lines by 99, since only one entry would exist for the entire block
15 of 100 lines. Sometimes the reverse situation may arise, yet this possibility is not
16 acknowledged by the Verizon witnesses.. A customer may have a group of 100 PBX trunks
17 serving 1,500 PBX stations configured for direct inward dialing (DID) and identified
18 outward dialing (IOD). A separate telephone number is assigned to each PBX station line,
19 and if the station dials ‘911’ its assigned telephone number, rather than the base number for
20 the trunk group, would be transmitted to the emergency reporting system. So in this

96. Shooshan/Weber/Taylor (VNJ), at 45.

1 example, the quantity of numbers in the E911 data base actually *overstates* the quantity of
2 access lines by 1,400.

3

4 Q. Who is responsible for submitting the telephone number and associated customer name and
5 address information to the E911 data base?

6

7 A. The retail carrier (ILEC or CLEC) generally has this responsibility, but it does not appear
8 that there is any uniformity in carriers' reporting practices. If the customer's PBX is not
9 capable of transmitting the calling station number on a '911' call, there would be no purpose
10 in including the individual station numbers in the E911 data base, since all calls would be
11 identified to the LDN or billing number, which would be in the E911 data base. The carrier
12 may not know, however, precisely what capabilities its customers' PBXs actually have, and
13 may thus provide all numbers in a DID number group – including numbers that are not even
14 assigned to specific PBX station lines – to E911. The point here is that there is simply no
15 valid basis to make a direct association of the quantity of entries in the E911 data base with
16 the quantity of access lines being provided by any individual carrier or category of carriers.

17

18 Q. Is there any reason to believe that there is a systematic bias as between the reporting
19 practices of VNJ vis-a-vis CLECs that would make the *percentage* of E911 numbers
20 associated with CLECs an unrepresentative indication of actual CLEC market share?

21

1 A. There is simply no way to know for sure. One obvious difference between ILEC and CLEC
2 business services is that a significant share of the total ILEC business market is served by
3 Centrex service, which would likely generate an E911 entry for each Centrex station line.
4 CLECs tend to address this same market by offering DID trunk services, and the status of
5 E911 reporting with respect to DID is less clear.

6

7 Q. Are there any FCC rules that deal with this issue?

8

9 A. The FCC opened a rulemaking proceeding in 1994 on the issue of E911 reporting of
10 individual PBX station lines at CC Docket 94-102⁹⁷ but has yet to issue a decision on this
11 matter. So at the present time there are no definitive rules establishing any specific E911
12 reporting requirements for PBX station lines and, to the best of my knowledge, there is no
13 reliable source of information as to exactly how prevalent each of the possible reporting
14 scenarios may actually be.

15

16 Q. Assuming for the sake of discussion that the E911 data was accurate and reliable, wouldn't
17 the conclusion that in excess of BEGIN PROPRIETARY<< [REDACTED] >> END PROPRIETARY
18 of all business lines in New Jersey are provided by CLECs⁹⁸ support the Company's
19 contention that the market is "competitive?"

97. Federal Communications Commission, In the Matter of Revision of the Commission Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Notice of Proposed Rulemaking*, Released October 19, 1994.

98. CLEC E911 listings as a percent of Total Business Access Lines. *See* Table 5.

1 A. No, for several reasons. First, it still teaches nothing as to the specific minimum quantity of
2 lines at which CLECs would consider a business customer to be worth pursuing, so at the
3 very least we still don't know where the cut-off between "monopoly" and "competitive"
4 should be. Second, the statewide E911 data teaches nothing about the *distribution* of CLEC-
5 served customers in the various parts of the state.

6

7 • Verizon has provided no comparison between competitors' E911 listings within an
8 exchange to the total number of lines served by VNJ in an exchange.

9

10 • Even in those exchanges where CLECs do have E911 listings, a careful review of the data
11 demonstrates that competitors have not been particularly successful in signing up
12 customers in many exchanges. Although 90% of the exchanges allegedly have CLEC
13 E911 listings, 28% of all exchanges across the state have fewer than 10 E911 listings for
14 CLECs, and 42% of all exchanges have fewer than 50 E911 listings.⁹⁹

15

16 • The E911 data does not permit any analysis on the size of the customer served by CLECs,
17 such that there is no way of determining whether small business customers are in fact
18 purchasing alternative services from CLECs.

19

20 With respect to resold lines, VNJ claims that CLECs provide resold business lines in all 204
21 wire centers. The Company then lists the number of wire centers serving a range of resold

99. Shooshan/Weber/Taylor (VNJ), Attachment 5.

1 lines.¹⁰⁰ While this data may be accurate, in order to provide some meaning behind these
2 numbers it is necessary to examine the ability of competitors to enter the market in each wire
3 center, which is demonstrated by the percentage of lines within the wire center taking service
4 from a CLEC. When this analysis is performed, one finds that CLECs serve less than 5% of
5 the lines via resale in BEGIN PROPRIETARY<< [REDACTED] >>END PROPRIETARY of
6 the 204 wire centers.¹⁰¹ As was the case with the E911 listings, there is no way of analyzing
7 the size of the business customer served, as the resold line data is not provided by customer
8 size. Thus, there is no evidence to support any conclusion that smaller customers are
9 experiencing any level of competition.

10
11 Based upon the extremely low penetration rates in the vast majority of the wire centers and
12 exchanges in New Jersey, neither Verizon's E911 nor resold line data demonstrates that the
13 presence of competitors equates to the presence of competition.

14
15 Q. Do the same types of arguments apply to the quantity of ported numbers in New Jersey wire
16 centers?¹⁰²

100. Shooshan/Weber/Taylor (VNJ), at 48.

101. Shooshan/Weber/Taylor (VNJ), Attachment 3, File: Oct 00 Bus Resold.xls; VNJ Response to AT&T-3.

102. According to VNJ, a telephone number is recorded as a "ported number" when a VNJ customer takes a CLEC as its service provider but retains the same telephone number (that the customer) had when s/he was a VNJ customer. *See*, VNJ response to RPA-287.

- 1 A. Yes. The VNJ witnesses claim that 139,981 business numbers were ported in 149 of the 204
2 wire centers in New Jersey,¹⁰³ which means that no numbers have been ported in roughly
3 one-quarter of the state's wire centers. Relying upon this data, Verizon focuses on the
4 *number of CLECs that have ported numbers in a given wire centers, rather than on the*
5 *quantity of ported numbers in each of those wire centers.* When one compares the quantity
6 of ported numbers to the number of business lines in a wire center, it is evident that the
7 quantity of ported numbers is also very small with respect to the total quantity of numbers
8 that could be ported.¹⁰⁴ Using this data, the ratio of ported numbers to total business lines is
9 less than 5% in BEGIN PROPRIETARY<< [REDACTED] >>END
10 PROPRIETARY of these wire centers have a ratio of less than 1%.¹⁰⁵ The miniscule
11 quantities of ported numbers in the vast majority of wire centers serves to strengthen the
12 argument that a level of competition that could have any effect upon constraining prices
13 exists in only a few wire centers in New Jersey.
- 14
- 15 Q. As an indication as to the presence of competitors, Verizon states that it has "lost" a certain
16 number of business lines, and that these lines were lost in all three density cells.¹⁰⁶ How do
17 you respond?

103. Shooshan/Weber/Taylor (VNJ), at 52.

104. Although not necessarily a one-to-one ratio, there is a relationship between the number of lines served in a wire center and the quantity of telephone numbers.

105. Shooshan/Weber/Taylor (VNJ), Attachment 11, File: midatlanticlnp01012001.xls; VNJ Response to AT&T-3.

106. Shooshan/Weber/Taylor (VNJ), at 53-54.

1 A. My response is quite simple: even though “lines lost” as calculated by Verizon has occurred
2 in all three density cells, the more critical factor is that lines lost as provided by Verizon only
3 account for roughly 4% of the total business lines in New Jersey,¹⁰⁷ thus further supporting
4 my assessment of the minimal state of competition for business lines, even if (according to
5 VNJ) “the losses are understated for the customers in the larger line sizes.”¹⁰⁸

6

7 Q. How do you respond to the Company’s contention that collocation allows competitors to
8 serve 98% of the business lines in New Jersey?¹⁰⁹

9

10 A. Verizon’s conclusions regarding collocation rely upon one of the factors that (together with a
11 number of other conditions) work to support a CLEC’s *ability* to provide service. One
12 obvious response to these witnesses’ claim is, if CLECs have the *ability* to serve 98% of the
13 business market, then why is it that after more than five years following enactment of the
14 federal legislation and more than 9 years following enactment of the New Jersey legislation
15 and, *even by VNJ’s own probably exaggerated count*, CLECs have only captured somewhere
16 in the range of only 11% of this market?¹¹⁰ The answer, of course, is that it takes a lot more
17 than “collocation” to make competition possible. It takes access by CLECs to VNJ’s OSS at
18 a level that is in all material respects equivalent to that which is available to VNJ’s own

107. *Id.* at 53.

108. *Id.* at 54.

109. *Id.* at 51-52.

110. *See*, footnote 95, *supra*.

1 customer service representatives, back office, and network provisioning personnel. It takes a
2 margin between VNJ's wholesale and UNE prices and its retail prices sufficient to permit
3 CLECs to recover their own retailing costs and earn a reasonable profit. It takes investors
4 who are prepared to put up the capital needed to finance CLEC entry and growth and who
5 are willing to invest in this market notwithstanding the formidable obstacles that ILECs such
6 as Verizon have placed in their way. Obviously, collocation is important, by it is not by
7 itself even remotely close to being *sufficient* to make viable, price-constraining CLEC
8 competition a reality.

9
10 Q. Is Verizon's data regarding the assignment of NXX codes to CLECs an appropriate
11 indication of the extent of competition?

12
13 A. No. Verizon's reference to the quantity of telephone numbers (12.11-million, or 1,211 NXX
14 codes¹¹¹) acquired by CLECs in New Jersey offers no indication whatsoever as to CLECs'
15 ability to serve customers in 93% of VNJ's exchanges where the VNJ witnesses claim such
16 assignment have occurred.¹¹² NXX code assignments have virtually no relevance in an
17 assessment of the competitiveness of the local market. Although carriers may be *assigned*
18 large quantities of numbers, recent FCC studies demonstrate that actual *utilization of*
19 numbering resources by CLECs is extremely low, largely because carriers seeking to provide

111. Telephone numbers are assigned in blocks of 10,000, which constitutes one NXX, or central office, code.

112. Shooshan/Weber/Taylor (VNJ), at 55-56.

1 service in a particular geographic region are required to obtain numbering resources in every
2 rate center in which they wish to offer service, and because numbers have up to now been
3 (with few exceptions) assigned in blocks of 10,000. Nationally, only about 9.8% of total
4 numbers held by CLECs are categorized as “assigned,” and even that figure exceeds the
5 quantity of access lines actually being provided by CLECs.¹¹³ Moreover, 70% of NXX
6 codes that have been distributed to CLECs are less than 3% utilized.¹¹⁴ Carriers are thus
7 *required* to obtain large quantities of numbers *irrespective of the demand for service by end*
8 *users*. There is simply no link between the number of NXX codes assigned to CLECs and
9 the development of actual CLEC competition.

10
11 Q. The Verizon witnesses discuss at length the survey conducted with small, medium and large
12 business customers regarding the extent of the marketing efforts and competitive alternatives
13 available through CLECs.¹¹⁵ Is this information relevant to the Company’s Petition for
14 reclassification of multiline business services as competitive?
15

113. Federal Communications Commission, Industry Analysis Division, *Numbering Resource Utilization in the United States*, December 2000 (“Number Utilization Report”), at Table 1. The values in this report reflect the FCC’s definitions established in its Number Resource Optimization proceeding, which concluded that assigned numbers “are numbers working in the Public Switched Telephone Network (PSTN) under an agreement such as a contract or tariff at the request of specific customers for their use, or as numbers not yet working but having a customer service order pending.” Number Resource Optimization, *First Report and Order*, CC Docket 99-200, March 31, 2000 at para. 16.

114. *Number Utilization Report*, at 5.

115. Shooshan/Weber/Taylor (VNJ), at 63-70.

1 A. No. The survey results simply offer anecdotal evidence that serves to support VNJ's
2 contention that there are competitors present in the market. Moreover, the responses provide
3 very little insight as to the presence of competition as it exists today, as opposed to
4 competition that may develop at some point in the future. The survey questions are very
5 carefully worded so as to avoid drawing conclusions as to the current actual successes of
6 competitors in securing customers. For example, one of the questions posed to survey
7 respondents asks "How likely are you to consider purchasing local telephone services other
8 than Centrex from a company other than Verizon, formerly Bell Atlantic?" In the list of
9 multiple-choice answers, Verizon combined "very likely" with "already purchasing service,"
10 which serves to mask any quantification of the number of businesses that are currently
11 purchasing service from a competitor.¹¹⁶

12

13 It is, to say the least, rather remarkable that Verizon, having spoken with so many business
14 customers throughout New Jersey,¹¹⁷ has provided the Board with no data indicating how
15 many of these customers have not only received an offer to switch local service carriers, but
16 have actually done so. The absence of this data is far more compelling than the self-serving
17 results that VNJ has provided.

18

19 Q. Are there other conclusions that can be drawn from the results of the survey?

116. *Id.*, Attachment 15, Part A at 8; Attachment 15, Part B at 7; and Attachment 17, at 5.

117. Based on the results of the survey, it would appear that the witnesses received responses from roughly 981 small, medium and large business customers. *Id.*, Attachment 15, Parts A&B and Attachment 17.

1 A. Yes. VNJ discusses at length how CLECs serve business customers in one way, shape or
2 form in nearly *all* wire centers or exchanges throughout New Jersey. However, the survey
3 results demonstrate that far fewer than 100% of business customers recognize that
4 competitive options for local service exist. For example, the VNJ witnesses allege the
5 following:¹¹⁸

6

- 7 • “In six of the seven geographic areas, at least 49 percent of respondents *with multiple*
8 *locations* said that they had a choice of more than one company from which to purchase
9 local telephone services, other than Centrex, for their locations throughout New Jersey.”

10

11 However, in the one geographic area excluded from Verizon’s statement, only 17%
12 answered this question in the affirmative. Furthermore, in only one geographic area did the
13 responses total more than 2/3 of the respondents, which means that between 25% and 83%
14 of respondents said they did not have a choice of more than one company from which to
15 purchase local telephone services, other than Centrex, for their locations throughout New
16 Jersey.

17

- 18 • 63 percent of large business customers “said that they had a choice of more than one
19 company from which to purchase local telephone services, other than Centrex for their
20 locations throughout New Jersey.”

118. Each of these quotes appears in Shooshan/Weber/Taylor (VNJ), at 63-66, (emphasis in original, footnotes omitted), and refer to the responses to Verizon’s survey questions appearing in Attachments 15 and 17.

1 Based upon these survey results, one-third of businesses with annual telecommunications
2 expenditures exceeding \$60,000¹¹⁹ do not have such a choice!

3

4 • With respect to the small and medium-size business customers at the particular business
5 location at which the surveyors reached them, “53 percent or more of all small and
6 medium business customers in each [geographic] area said that they had a choice of more
7 than one company from which to purchase local telephone services, other than Centrex, at
8 that location.”

9

10 In none of these geographic regions, however, did that value exceed 73%, which means that
11 at least one-quarter, and as many as about one-half of all respondents in all geographic
12 regions did not have a choice of alternative local service offerings.

13

14 • “Among small and medium business customers with multiple locations, 39 percent or
15 more respondents in each geographic area said that more than one company offered local
16 telephone services in the neighborhoods of their business locations statewide.”

17

18 This statement appears to relate to Question 10, yet the results appearing in Attachment 15
19 do not support this conclusion. A more accurate statement would be that between 43% and
20 62% of surveyed customers said that more than one company offered local telephone

119. See Shooshan/Weber/Taylor (VNJ), Attachment 13, at 1.

1 services in the neighborhoods of their business locations statewide, but that between 31%
2 and 46% of respondents indicated that no other competitors were present.

3

4 • “Of the large business customers, 56 percent also said that more than one company
5 offered local telephone services in the neighborhoods of their business locations
6 statewide.”

7

8 The remainder of the respondent (44%) either do not have another company providing
9 telecommunications services in the neighborhoods of their business locations statewide, or
10 are unaware of such an option.

11

12 The survey results clearly are consistent with my conclusion that the mere presence of a
13 competitor does not indicate the presence of competition, and more importantly, serve to
14 disprove Verizon’s claim that the statewide presence of competitors results in competition
15 for all business customers of all shapes and sizes. Rather, it would appear that a *limited*
16 presence of competitors is nearly identical to no presence at all. And one thing is for certain:
17 there is absolutely nothing in the survey results that could possibly support the Company’s
18 claim that customers *with as few as two lines* actually have competitive choices for their
19 local business telephone service.

20

21

22

1 **In those areas where competition is not present, there can be no determination that like or**
 2 **substitute services are available.**

3

4 Q. The statute references the availability of like or substitute services as one criteria for
 5 considering the reclassification of services from noncompetitive to competitive. How does
 6 Verizon claim to meet this standard?

7

8 A. Verizon largely relies upon its prior analysis as to the presence of competitors in asserting
 9 that like or substitute services exist.¹²⁰ Aside from that, Verizon relies upon “additional
 10 marketplace evidence” focusing on the growth in demand for competitive services, as well
 11 as more survey results, as evidence that like or substitute services exist.¹²¹

12

13 Q. Do you agree that the presence of competitors demonstrates the existence of like or
 14 substitute services?

15

16 A. No. As discussed at length in the preceding section of my testimony, the presence of
 17 competitors does not equate to the presence of competition. Despite Verizon’s claims that
 18 nearly the entire state is “addressable” by at least one CLEC due to currently provisioned
 19 resale or UNE loops and/or collocation at a serving wire center,¹²² the high market

120. Shooshan/Weber/Taylor (VNJ), at 70.

121. *Id.* at 71.

122. The concept of addressability is discussed and refuted in the recent Illinois HEPO.
 “Addressability thus tells us whether one or more prospective competitors have moved beyond
 (continued...) ”

1 penetration rates retained by Verizon indicate that business customers do not consider CLEC
2 services to be “like or substitute.”

3
4 VNJ also states that the data demonstrates that “competitive like or substitute services for
5 every category of business service are available *or can be made available in a short time in*
6 *virtually every area served by Verizon NJ.*”¹²³ In doing so, the Company actually admits that
7 like or substitute services are *not currently available in all of Verizon’s territory in New*
8 *Jersey.*

9
10 Finally, the results of the survey described earlier indicate that a substantial percentage of
11 business customers do not have alternate service offerings available from CLECs in their
12 service areas. For all of these reasons, one must conclude that like or substitute services are
13 *not available to business customers in New Jersey.*

14

122. (...continued)

mere contemplation of market entry and taken concrete actions in preparation for actual competition. However, it does not take into account the additional action that is required before actual service provision can commence. It does not tell us whether providers are actively offering services or what services they are providing. It does not consider whether significant obstacles discourage customers from the actual purchase of those services, nor does it tell us whether, or to what extent, customers are making purchases. We concur with Staff and certain intervenors that addressability is about potential, not actual, competition.” Illinois HEPO, at 57.

123. Shooshan/Weber/Taylor (VNJ), at 37.

1 Q. The VNJ witnesses contend that available data provides evidence of a “rapidly growing
2 customer base in New Jersey” for new entrants.¹²⁴ Should growth in the provisioning of
3 local services by new entrants affect the decision made by the Board as to whether or not the
4 local market is *currently* competitive, or whether there are like or substitute services
5 available to business customers?
6

7 A. No, it should not. Focusing upon growth provides no insight as to the *actual* level of
8 competition that exists today in the New Jersey local service market, which is the
9 appropriate analytical standard upon which the Board should rely when assessing the
10 viability of Verizon’s Petition for reclassification. Just as is written in every mutual fund or
11 corporate prospectus, “past performance is no guarantee of future results,” the Board needs
12 to adhere to the same principle. Furthermore, Verizon relies upon the absolute numbers and
13 the year-over-year *percentage* growth for various line counts, but once again fails to
14 represent these counts as a percentage of total business lines served in New Jersey, which
15 demonstrates CLEC penetration rates in the market. Table 5 synthesizes the data presented
16 and relied upon by VNJ and also shows the percentage of total lines for each metric. The
17 CLEC penetration data, which is represented in the far right column of the table, disproves
18 Verizon’s conclusion that a rapidly growing market is indicative of “substantial
19 competition.”¹²⁵

124. *Id.* at 89.

125. *Id.* at 90.

1 BEGIN PROPRIETARY<<

Table 5						
Growth in Competitive Data is Misleading When Reaching Conclusions on the Development of Competition for Multiline Business Services						
	1998 CLEC demand	1999 CLEC demand	1998-1999 Growth	2000 CLEC demand	1999-2000 Growth	2000 CLEC demand as a % of Total Business Lines
E911 Listings						
Ported Numbers						
Resold Lines						

Source: Shooshan/Weber/Taylor (VNJ), at 89-90; ARMIS, 43-08:Table III. Access Lines in Service by Customer, 2000; Shooshan/Weber/Taylor (VNJ), Cd #9, Attachment 11, File: midatlanticlnp01012001.xls; Shooshan/Weber/Taylor (VNJ), at 44.

16 >>END PROPRIETARY

17

18 Q. Do the survey results referred to by Verizon indicate the availability of like or substitute
 19 services?

20

21 A. No. As I stated above, the results of the survey actually disprove Verizon’s contention that
 22 competitors are present in all business markets across the state. The lack of competitors
 23 leads to the inescapable conclusion that there is a lack of like or substitute services for
 24 business customers in New Jersey. Verizon’s conclusions that the survey data demonstrates
 25 an interest by business customers in receiving service from another local service provider is
 26 also far from accurate. The survey data suggests that only about 1 or 2 out of 10 business

ALLEGEDLY PROPRIETARY DATA
 HAS BEEN DELETED

1 customers of varying sizes demonstrated an interest in or were already being served by a
2 company other than VNJ. This is by no means corroboration that like or substitute services
3 are available. Instead, it is an admission on the part of Verizon that (1) very few customers
4 currently take service from CLECs or would consider an alternative local service provider to
5 Verizon; and (2) based on the customer responses, the *future* prospects for competitors
6 gaining market share from Verizon appear quite weak.

7

8 **Substantial entry barriers can still exist despite nominal entry by few firms in few markets.**

9

10 Q. Please explain what is meant by “ease of entry.”

11

12 A. “Ease of entry” refers to the degree to which a competitor can enter a market with minimal
13 fixed up-front costs, delays, or other economic or legal barriers to entry. Barriers to entry
14 may be classified as economic, regulatory or technological. As reflected in the New Jersey
15 statute,¹²⁶ the demonstration of ease of competitive entry is a necessary component for any
16 competitive market, and is one the Board must carefully scrutinize when evaluating VNJ’s
17 petition to reclassify multiline business services.

18

126. N.J.S.A. Section 48:2-21.19(b).

1 Q. VNJ asserts that, “the evidence of substantial entry, investments, and growth by numerous
2 firms demonstrates that no substantial economic entry barriers exist in New Jersey local
3 telecommunications markets.”¹²⁷ Do you agree?
4

5 A. No, I do not. VNJ employs many of the same deficient measures that it used when assessing
6 the presence of competition in New Jersey to support its notion that the mere presence of
7 some competitors in a market indicates that no barriers to entry exist. Specifically, VNJ
8 relies upon the number of competitors and customers for multiline business services, and the
9 investment in infrastructure made by competitors. VNJ attempts to demonstrate that
10 competitors have taken certain steps in order to enter certain markets in New Jersey. As I
11 discussed earlier in my testimony, the metrics that VNJ has employed to measure the
12 presence of competition (number of certified competitors, number of resold lines, number of
13 E-911 listings, number of ported numbers, number of collocation arrangements, number of
14 NXX codes assigned, etc.) are flawed and are not accurate indicators of the presence of
15 competition; for those same reasons, one cannot conclude that the mere presence of
16 competitors is indicative of the absence of entry barriers.
17

18 Despite nominal entry by a few firms in a few key markets, the utter lack of effective
19 competition throughout the state demonstrates that considerable market barriers remain and
20 have worked to limit the ability of competitors to attract market share. Indeed, the fact that
21 such a large number of “competitors” authorized to offer such services in New Jersey have

127. Shooshan/Weber/Taylor (VNJ), at 91.

1 been able to secure such a small portion of the market is a clear indication that entry barriers
2 persist. VNJ's attempts at diverting the Board's attention away from market share data
3 should not be at all surprising,¹²⁸ since that data clearly undermines the Company's various
4 contentions and speculations as to the existence and impending development of effective
5 competition.

6
7 Q. VNJ claims that its offering of services to competitors on an Unbundled Network Element
8 (UNE) basis illustrates that new entrants do not incur substantial sunk costs when entering
9 the market and therefore do not face any economic barriers. Do you agree?

10
11 A. No, I do not. VNJ's position that offering services on a UNE basis eliminates market
12 barriers and allows competitors to enter the market with little to no sunk costs hinges on the
13 assumption that recurring and nonrecurring UNE rates are set at the appropriate economic
14 cost of providing the service. VNJ's rates for UNEs, previously determined by the Board,
15 were recently remanded back to the Board by the U.S. District Court because the rates
16 adopted were "arbitrary and capricious."¹²⁹ Appropriately-set UNE rates based upon
17 economic cost is critical in the development of local competition. UNE-based entry has

128. *Id.* at 32-36.

129. *AT&T Communications of New Jersey, Inc., et al., v. Bell Atlantic-New Jersey, Inc., et al., Civ. No. 97-5762 (KSH), and MCI Telecommunications Corp., et al., v. Bell Atlantic-New Jersey, Inc., et al., Civ. No. 98-0109 (KSH), United States District Court, District of New Jersey Order, Opinion, June 2, 2000.* New cost studies were filed with the Board on July 28, 2000 in an effort to revise UNE prices. In the Matter of the Board's Review of Unbundled Network Elements Rates, Terms and Conditions of Bell Atlantic - New Jersey, BPU Docket No. TO00060356.

1 largely been considered beneficial in providing “stepping stones” for carriers to provide a
2 competitive service over their own facilities; i.e., network elements are purchased and
3 combined with other facilities in order to provide service. The “arbitrary and capricious”
4 rates adopted for UNEs in New Jersey generated sales of UNE loops equal to approximately
5 0.48%¹³⁰ of Verizon’s total switched lines, far below the percentage of total ILEC lines
6 provided to Competitors on a UNE basis.¹³¹ The Board currently has underway a proceeding
7 that will revise VNJ’s UNE rates.¹³² Until such time as those rates are set (and provided they
8 are appropriately set based upon the underlying economic cost of the elements), this barrier
9 to competitive entry will exist.¹³³

10

11 In addition, I have discussed at length that serving small customers via resale and UNE
12 provides very little revenue margin for CLECs. Revised UNE rates as established by the
13 Board may assist in remedying this situation, but the fact remains that the existence of

130. VNJ reported 33,330 UNE loops as of November 2000, Shooshan/Weber/Taylor (VNJ), Attachment 9; VNJ had 6,914,330 switched access lines as of December 2000, ARMIS Report 43-08: Table III.

131. Of the 187,784,000 ILEC lines, 3,257,000 (1.73%) lines were provided to competitors on a UNE basis. Common Carriers Bureau - Industry Analysis Division, *Local Competition: Status as of June 30, 2000*, released December 2000, Table 4.

132. New Jersey BPU Docket No. TO00060356.

133. As has also been pointed out in filings made to the Board and by the Ratepayer Advocate and AT&T in Docket No. TO00060356, it will be only *after* the adoption of cost-based UNEs that the Board will truly be able to assess the competitive environment in New Jersey, a concept that is central to VNJ’s current filing for reclassification of regulated services as competitive.

1 narrow margins have made carriers reluctant to provide service to small customers using
2 wholesale VNJ services.

3

4 Q. Is it correct for VNJ to cite the technological ability of competitors to expand to adjacent
5 geographic areas and product markets as evidence of ease of market entry?

6

7 A. No, it is not. VNJ's alleged assertion that competitors do not face technological barriers
8 when they possibly enter or expand their facilities and service offerings in New Jersey is a
9 moot point, since competitors continue to face critical economic and regulatory barriers (as
10 discussed above and also later in my testimony) that restrain competitive entry into New
11 Jersey's local market.

12

13 Incredibly, when discussing the existence of technological entry barriers, VNJ makes no
14 mention of its competitors' ability to access VNJ's OSS system. As the Board is well aware,
15 access to an ILEC's OSS system is considered a critical component of the Section 271
16 "competitive checklist." In order for VNJ to be in compliance with the "competitive
17 checklist" as set forth in Section 271 of the federal Act,¹³⁴ it must provide "nondiscrimin-

134. Section 271 of the Act was drafted in order to provide incumbent LECs with an incentive to comply with the other portions of the Act that had the express purpose of opening the incumbent LECs' local markets to competitive entry. Once the incumbent LEC meets the market-opening initiatives as set forth by Congress in the checklist, the incumbent LEC is authorized to provide interLATA services.

1 atory access to network elements;”¹³⁵ this issue has been considered to be something of a
2 measuring stick in determining whether an RBOC’s local markets are open to competition.
3 In order to provide “nondiscriminatory access” to these elements, it is necessary for the
4 competing carriers to have electronic access to VNJ’s operations support systems so as to
5 enable seamless preordering, ordering and provisioning of VNJ’s resale and UNE
6 services.¹³⁶ VNJ has not yet demonstrated compliance with the Section 271 checklist and
7 OSS testing has not as yet been completed.¹³⁷ Until such time as VNJ is able to provide
8 seamless access for competitors to its OSS, this technological barrier will exist.¹³⁸

9

10 Q. Do competitors face other barriers to entry?

11

135. 47 CFR Section 271(c)(2)(B)(ii).

136. Operations support systems are the management information systems used by incumbent carriers to provision pre-existing retail services and for the ongoing operation of its network, including processing service requests from competitors. In my view, CLEC access to ILEC OSSs must not only be *seamless*, it must be substantively *equivalent* to the character and form of access that the ILEC provides to its own retail and retail-support operations.

137. Even if VNJ had satisfied the federal Section 271 requirements, that would not be dispositive of the Company’s demonstration of the presence of effective competition. The federal requirements contain no market presence or market power test, but simply provide the Bell Operating Company long distance entry once the regulatory and economic barriers to entry have been eliminated. However, the *failure* of VNJ to satisfy the federal requirements is dispositive of the persistence of such barriers in the New Jersey market.

138. Based upon the situation that Verizon faced in New York in its attempt at gaining 271 authority, wherein extensive OSS testing was required prior to granting the petition, it is certainly curious that VNJ’s witnesses completely overlooked access to OSS as a barrier to entry.

1 A. Yes, indeed. In addition to the established VNJ UNE rates that are not based upon the
2 appropriate economic costs, and the obstacle of gaining access to VNJ's operations support
3 systems, competitors encounter other barriers to entry into the local business market,
4 including the following:

5

6 • *Customer inertia.* Local telephone service in New Jersey is already being provided to
7 customers. Therefore, in order for new entrants to gain market share, they must incent
8 customers to switch from Verizon (in the vast majority of cases) to a new, and in most
9 cases, unknown, local service provider. Competitors may find any number of unique
10 ways to convince consumers to switch their service, but the fact remains that competitors
11 will always be fighting an uphill battle to gain market share (as is evident by the
12 minuscule market shares enjoyed by CLECs), whereas for Verizon, the market share is
13 theirs to lose. Furthermore, until such time as customers are comfortable with switching
14 local service providers (much as they now are with respect to long distance service), this
15 competitive barrier will exist.

16

17 • *Price leadership by VNJ.* Verizon will continue to exert substantial influence on, if not
18 outright control of, market prices until such time as true *facilities-based* competition
19 develops on a widespread basis, if in fact that ever occurs. Verizon will maintain its
20 "price leadership" role at the retail level, with competitors accepting their role as "price
21 takers," setting their own prices *in relation to* those offered by VNJ. VNJ will also
22 control the wholesale prices that competitors pay for bundled services, UNEs, collocation

1 space, OSS access, and other things they will need to purchase from the incumbent
2 monopoly. Such “competition” as may arise will exist largely within the narrow band
3 between VNJ’s wholesale prices and its retail prices. Any notion that this type of
4 competition will somehow make the local telecommunications market “competitive”
5 must be viewed as fanciful at best.

6
7 Q. VNJ relies upon its findings from customer research to support its assertion that there are no
8 barriers to entry. Do you consider these findings to be an appropriate indicator of ease of
9 entry?

10
11 A. No, I do not. As I have discussed earlier in my testimony, VNJ’s survey results provide only
12 anecdotal evidence to support VNJ’s contention that there are competitors in the market,
13 from which it then “concludes” that barriers to entry do not exist. Again, the presence of
14 some competitors in key New Jersey markets does not confirm that competition is
15 flourishing in New Jersey or that competitors are not continuing to confront formidable
16 barriers to entry.

17
18 Q. One last point. While VNJ’s Dr. Taylor testifies in this proceeding that the local market is
19 fully competitive, has he advanced a different view in other jurisdictions?

20
21 A. Yes. In testimony that Dr. Taylor submitted in March of this year on behalf of Qwest in
22 Utah, he incorrectly claims that I had characterized the local market as “competitive,” and

1 then responds to this mischaracterization by stating that “[w]hile competition has developed
2 for some services and some types of customers, the [local] market is not yet fully
3 competitive.”¹³⁹

4

5 **The Board should expand upon the minimal criteria identified in the statute when**
6 **considering VNJ’s reclassification of regulated multiline business services as competitive.**
7

8 Q. Dr. Selwyn, in addition to the various standards that have been applied by VNJ in support of
9 its claim that multiline business services should be reclassified from noncompetitive to
10 competitive, what other standards should the Board apply when making this determination?
11

12 A. When considering the reclassification of all multiline business services as competitive, it is
13 necessary to employ the strictest possible criteria. The statute sets forth three specific
14 standards (ease of market entry, presence of competitors, and existence of like or substitute
15 services in the relevant geographic area), but also provides the flexibility to employ
16 additional standards as determined by the Board. As I have already discussed, Verizon has
17 failed to provide evidence that shows that its proposal to reclassify all regulated multiline
18 business services as competitive has even met the Board’s *minimum* standards for
19 reclassification. Nonetheless, I feel it is important that Board expand the standards it uses
20 when reclassifying monopoly services as competitive beyond the three criteria specifically
21 enumerated in the statute. Specifically, the following additional tests should be applied:

139. Public Service Commission of Utah, *In the Matter of the Investigation of Inter-Carrier Compensation for Exchanged ESP Traffic*, Docket No. 00-999-05, Rebuttal Testimony of Dr. William E. Taylor on behalf of Qwest Corporation, March 9, 2001, at 34.

1 • *Presence of effective competition in the relevant geographic area.* As I discussed at
2 length above, the presence of competitors does not equate to the presence of competition.
3 The Board must require proof that price-constraining competition for the services in
4 question exists prior to granting competitive status, in order to protect consumers from
5 anti-competitive pricing arrangements. As a model, the Board should follow the manner
6 in which the FCC deregulated toll service. Following the breakup of the Bell system,
7 AT&T was the default toll carrier for the vast majority of customers despite the fact that
8 the market was nominally open to competition. AT&T was not granted complete pricing
9 discretion until the FCC in 1995 approved AT&T's petition for "nondominant carrier"
10 status.¹⁴⁰ The FCC based its decision, in part, upon AT&T's market share, which had by
11 then fallen to 60%.¹⁴¹ The Board should be similarly strict with VNJ in the Company's
12 efforts to reclassify local business multiline services. Moreover, as discussed earlier, the
13 Board should examine the existence of effective competition at the wire center level, as
14 this is the relevant market for the purchase of local service. Reclassifying local services
15 as competitive in wire centers where effective competition does not yet exist is not in the
16 public interest because it has the potential to subject consumers with few or no
17 competitive alternatives to large rate increases.

18

140. In the Matter of Motion of AT&T Corp. to be Reclassified as a Non-Dominant Carrier, *Order*, FCC 95-427, 11 FCC Rcd 3271 (1995).

141. *Id.*, at para. 68.

- 1 • *Compliance with the Section 271 competitive checklist.* It should be clear to the Board
2 that compliance with the Section 271 checklist *does not* suggest that effective competition
3 exists. However, the absence of such compliance certainly raises questions as to exactly
4 how “open” the market really is. While an FCC finding of checklist compliance is clearly
5 a *necessary* condition without which viable competition cannot be expected to develop, it
6 is in no sense *sufficient* to assure that a BOC no longer possesses market power in the
7 local service market. This is in part because the standard for checklist compliance
8 expressly does not require such compliance in all geographic areas of the state. Hence,
9 the Board should not even entertain the kind of petition that VNJ has advanced here in the
10 absence of 271 checklist compliance.
- 11
- 12 • *The ability of competitors to offer services at competitive prices, terms and conditions.* In
13 addition to requiring VNJ to demonstrate that there are like and substitute services
14 available in the market, the Board should require that VNJ demonstrate that competitors
15 offer the same services that the Company seeks to reclassify at competitive prices, terms
16 and conditions. Although VNJ made a limited showing of the tariff rates for the most
17 basic CLEC business local service offerings in New Jersey, it did not demonstrate that all
18 of the services that it seeks to reclassify are offered at competitive prices, terms and
19 conditions by CLECs in New Jersey.¹⁴² The Board should require that VNJ demonstrate
20 that each of the 45 multiline business services that the Company seeks to reclassify are

142. VNJ provided a matrix of recurring monthly tariff rates of ten CLECs (out of 71 CLECs) for a selection of basic business services, including flat, measured and message service, DID, Trunk message and vertical features. *See* Shooshan/Weber/Taylor (VNJ), Attachment 8.

1 being offered by a large share (not by just one or two) of the 71 competitors throughout
2 the state of New Jersey, and in each wire center.

- 3
- 4 • *The impact that reclassification will have upon the continuing availability of existing*
5 *services and regulated services.* When evaluating a petition to reclassify services, the
6 Board should consider the effect, if any, that the reclassification will have upon other
7 services, both regulated and competitive. For example, if VNJ is granted reclassification
8 for all of its multiline business services, VNJ would have the license to “re-package” or
9 “bundle” services so that a customer would no longer be able to procure a service on a
10 single-element basis. VNJ attempted to do just this in the CTP proceeding, when it
11 proposed to bundle local, intraLATA toll and vertical services for its residential
12 customers. The Board should ensure that the possible reclassification of all of VNJ’s
13 multiline business services coupled with VNJ’s dominant presence in the business
14 market, will not impede the development of competition in New Jersey.
- 15
- 16 • *Consider the merits of reclassification on a service-by-service basis.* VNJ relies upon a
17 point of view that considers the market as a whole when assessing the competitive status
18 of its regulated services, and applies its competitive criteria at that market-wide level.
19 The Company’s attempt at reclassifying all multiline business services as competitive in
20 one fell swoop has the potential to mask the lack of competitiveness in some services
21 with the competitiveness of others. Instead, the Board should assess competitive
22 standards on a service-specific basis, or, alternatively, on a group of like services (such as

1 custom calling features). Doing so will limit the chance that some not-so-competitive
2 services will be inappropriately reclassified as competitive. In the present case, VNJ has
3 actually offered evidence, albeit sketchy and highly speculative, to the effect that its
4 multiline business services and carrier switched access services are competitive. I have
5 already demonstrated that these claims are decidedly false. The Board should soundly
6 reject this finesse by VNJ. If any service is to be reclassified, the Company should be
7 required to individually support, by clear and compelling evidence, that an effectively
8 competitive market, with no material entry barriers, exists for each such service.

- 9
- 10 • *UNE prices should be set at levels that reflect economic cost.* In order to promote
11 effective competition, prices for unbundled network elements should reflect their
12 underlying economic costs. When UNEs are priced above or below cost, efficient
13 competitive carriers are given the incorrect economic signals regarding this important
14 method of market entry. UNE rates priced well above cost preclude new entrants from
15 offering UNE-based services, which is often seen as the best opportunity for competitors
16 to serve low-revenue customers. (This appears to be the case in New Jersey, given the
17 minimal quantities of UNE loops being provided by VNJ to competitors.) UNEs priced
18 well below cost would incent firms to provide service *only* via these leasing
19 arrangements, thus discouraging them from developing their own facilities. The Board
20 has the opportunity in Docket No. TO00060356 to revisit the UNE prices (previously
21 approved but currently under remand) in New Jersey and to ensure the development of
22 efficient competitive entry by basing those prices on economic cost.

1 • *A demonstration of the availability of UNE-P.* In connection with developing cost-based
2 prices for UNEs, the Board should consider the availability of the UNE Platform (“UNE-
3 P”) in the wire centers in which the local services being sought for competitive
4 reclassification are provided. The availability of cost-based UNE-P for both existing VNJ
5 customers who “migrate” in-place to a CLEC, as well as for inbound CLEC customers,
6 will provide the Board with some level of comfort that efficient competitive entry is
7 possible in the relevant geographic area.

8
9 • *Prompt and efficient dispute resolution modalities.* The Board should ensure the
10 existence of prompt and efficient dispute resolution with respect to the interconnection
11 agreements entered into between VNJ and new entrants. As the incumbent, VNJ has the
12 upper hand when it comes to interconnection agreements: Failing to address and resolve
13 disputes in a timely manner has no adverse business consequences for Verizon, but may
14 prove fatal for new entrants. Implementing procedures relating to the efficient resolution
15 of disputes will serve to protect new entrants as well as end users from any form of
16 anticompetitive backlash that may result from a delay in resolving a dispute. The Board
17 has specifically recognized the relevance and importance of an effective Alternative
18 Dispute Resolution (ADR) to the development of an effectively competitive market,¹⁴³
19 but it is my understanding that as of the filing date of this testimony such procedures are
20 rarely invoked. The existing Alternate Dispute Resolution process within the Board of

143. *Status of Local Telephone Competition: Report and Action Plan*, BPU Docket No. TX98010010, July 1998, Attachment B.

1 Public Utilities was originally identified in the State's STARR Report¹⁴⁴ as a useful tool
2 for increasing the number of negotiated settlements. However, it is not known to what
3 extent carriers have elected to submit their issues to this process, and where they have
4 not, then why not.

- 5
- 6 • “Air tight” service quality measurements and standards. The Board should also mandate
7 that services for which reclassification is sought meet certain service quality standards so
8 as to protect consumers once those services have been freed from the effects of pricing
9 regulation.

10

11 Implementing these additional, more stringent competitive standards to services is a
12 necessary step in protecting consumers from the dire economic and social consequences that
13 may result from premature competitive reclassification.

14

15 Q. Does the Board have any recourse once a service has been reclassified as competitive?

16

17 A. I am advised that, according to N.J.S.A. 48:2-21.19(d), the Board does have the ability to
18 reclassify services from competitive to noncompetitive. However, I do not believe that this
19 provides much of a safety net. I can easily envision a situation where the Board's desire to
20 revisit the classification of a currently competitive service is met with a great deal of

144. New Jersey Department of State, *The STARR Report, Strategy To Advance Regulatory Reform*, (1995), Chapter II, at 5.

1 regulatory interference from Verizon. During the ensuing delay, the service would
2 undoubtedly retain its competitive classification, thus allowing for continued market
3 domination and price exploitation until such time as a resolution in the matter is passed.
4 Worse, following adoption of VNJ's proposed Petition, if the Board sought reclassification
5 of all services *back to noncompetitive status*, VNJ could seek to have each service's
6 competitive status evaluated individually, thereby drawing out the reclassification process
7 with the same anticompetitive results. Rather than rely upon the provisions of the statute as
8 a safety net, the Board should simply use more stringent competitive standards when
9 assessing the initial reclassification petition.

10
11 **The Board should deny Verizon-New Jersey's Petition to reclassify multiline business**
12 **services into the "competitive" category, but could consider a more narrowly focused,**
13 **better supported proposal in the future.**
14

15 Q. What is your overall recommendation with respect to VNJ's Petition for reclassification of
16 multiline business services from noncompetitive to competitive?

17
18 A. VNJ has failed to demonstrate that multiline business services should be reclassified as
19 competitive services. The Company has interpreted the reclassification statute in the
20 narrowest possible manner, but notwithstanding the multitude of data it has presented,
21 Verizon has failed to demonstrate to the Board that reclassification is justified even under its
22 narrow reading of the statute. CLEC presence in many wire centers is minimal, and in some
23 the number of lines served is almost imperceptible. The nominal "presence" of some
24 competitors in no way, shape or form demonstrates the existence of competition in those

1 wire centers. If reclassification is granted in the absence of effective competition, many
2 current customers will be at risk of economic harm as there will be few if any choices for
3 alternative service. The distinct lack of market share held by CLECs is an important
4 reminder that, in the minds of customers (which is where it is most important), CLEC local
5 exchange service is distinctly not considered a like or substitute service. And, despite
6 nominal entry by some CLECs, significant barriers to entry persist which further prevent
7 CLECs from entering and competing for customers throughout New Jersey. The Board
8 should employ additional standards when considering the reclassification of multiline
9 business services, not the minimal standards employed by Verizon. However, even with
10 these minimal standards, Verizon’s Petition for Reclassification fails to justify that these
11 services be reclassified.

12

13 Q. What action should the Board take with respect to Verizon-NJ’s Petition?

14

15 A. Verizon’s Petition as presented should be denied because the Company has failed to provide
16 a compelling justification for reclassification of *all* multiline business services to the
17 “competitive” category. However, there may be a basis for *some* multiline business services
18 to be reclassified, although the instant Petition does not provide sufficient support for
19 reclassification of less than all multiline services. Specifically, the Board could consider a
20 Petition for reclassification that contained at least the following:

21

- 1 • An accurate identification of the subset of multiline business services (in terms of the
2 number of lines furnished to a customer at a specific location) for which actual
3 competitive alternatives are available.
4
- 5 • Evidence supporting the availability of sufficient operating margin between VNJ's retail
6 prices and the prices VNJ charges CLECs for the UNEs that would be required in order
7 for a CLEC to offer competing services.
8
- 9
- 10 • A demonstration that once reclassified the "competitive" multiline business services will
11 continue to provide comparable contribution toward the shared, joint and common costs
12 of VNJ.
13
- 14 • A demonstration that all statutory standards for reclassification, as well as the additional
15 considerations that I have discussed here, are satisfied.
16

17 When, as and if VNJ is able to provide a Petition for reclassification that will satisfy all of
18 these requirements, the Board can consider its request at that time.
19

20 Q. Does this conclude your direct testimony at this time?
21

22 A. Yes, it does.

Attachment 1

Statement of Qualifications

LEE L. SELWYN

Dr. Lee L. Selwyn has been actively involved in the telecommunications field for more than twenty-five years, and is an internationally recognized authority on telecommunications regulation, economics and public policy. Dr. Selwyn founded the firm of Economics and Technology, Inc. in 1972, and has served as its President since that date. He received his Ph.D. degree from the Alfred P. Sloan School of Management at the Massachusetts Institute of Technology. He also holds a Master of Science degree in Industrial Management from MIT and a Bachelor of Arts degree with honors in Economics from Queens College of the City University of New York.

Dr. Selwyn has testified as an expert on rate design, service cost analysis, form of regulation, and other telecommunications policy issues in telecommunications regulatory proceedings before some forty state commissions, the Federal Communications Commission and the Canadian Radio-television and Telecommunications Commission, among others. He has appeared as a witness on behalf of commercial organizations, non-profit institutions, as well as local, state and federal government authorities responsible for telecommunications regulation and consumer advocacy.

He has served or is now serving as a consultant to numerous state utilities commissions including those in Arizona, Minnesota, Kansas, Kentucky, the District of Columbia, Connecticut, California, Delaware, Maine, Massachusetts, New Hampshire, Vermont, New Mexico, Wisconsin and Washington State, the Office of Telecommunications Policy (Executive Office of the President), the National Telecommunications and Information Administration, the Federal Communications Commission, the Canadian Radio-television and Telecommunications Commission, the United Kingdom Office of Telecommunications, and the Secretaria de Comunicaciones y Transportes of the Republic of Mexico. He has also served as an advisor on telecommunications regulatory matters to the International Communications Association and the Ad Hoc Telecommunications Users Committee, as well as to a number of major corporate telecommunications users, information services providers, paging and cellular carriers, and specialized access services carriers.

Dr. Selwyn has presented testimony as an invited witness before the U.S. House of Representatives Subcommittee on Telecommunications, Consumer Protection and Finance and before the U.S. Senate Judiciary Committee, on subjects dealing with restructuring and deregulation of portions of the telecommunications industry.

In 1970, he was awarded a Post-Doctoral Research Grant in Public Utility Economics under a program sponsored by the American Telephone and Telegraph Company, to conduct research on the economic effects of telephone rate structures upon the computer time sharing industry. This work was conducted at Harvard University's Program on Technology and Society, where he was appointed as a Research Associate. Dr. Selwyn was also a member of the faculty at the College of Business Administration at Boston University from 1968 until 1973, where he taught courses in economics, finance and management information systems.

Dr. Selwyn has published numerous papers and articles in professional and trade journals on

the subject of telecommunications service regulation, cost methodology, rate design and pricing policy. These have included:

“Taxes, Corporate Financial Policy and Return to Investors”
National Tax Journal, Vol. XX, No.4, December 1967.

“Pricing Telephone Terminal Equipment Under Competition”
Public Utilities Fortnightly, December 8, 1977.

“Deregulation, Competition, and Regulatory Responsibility in the Telecommunications Industry”
Presented at the 1979 Rate Symposium on Problems of Regulated Industries - Sponsored by: The American University, Foster Associates, Inc., Missouri Public Service Commission, University of Missouri-Columbia, Kansas City, MO, February 11 - 14, 1979.

“Sifting Out the Economic Costs of Terminal Equipment Services”
Telephone Engineer and Management, October 15, 1979.

“Usage-Sensitive Pricing” (with G. F. Borton)
(a three part series)
Telephony, January 7, 28, February 11, 1980.

“Perspectives on Usage-Sensitive Pricing”
Public Utilities Fortnightly, May 7, 1981.

“Diversification, Deregulation, and Increased Uncertainty in the Public Utility Industries”
Comments Presented at the Thirteenth Annual Conference of the Institute of Public Utilities, Williamsburg, VA - December 14 - 16, 1981.

“Local Telephone Pricing: Is There a Better Way?; The Costs of LMS Exceed its Benefits: a Report on Recent U.S. Experience.”
Proceedings of a conference held at Montreal, Quebec - Sponsored by Canadian Radio-Television and Telecommunications Commission and The Centre for the Study of Regulated Industries, McGill University, May 2 - 4, 1984.

“Long-Run Regulation of AT&T: A Key Element of A Competitive Telecommunications Policy”
Telematics, August 1984.

“Is Equal Access an Adequate Justification for Removing Restrictions on BOC Diversification?”
Presented at the Institute of Public Utilities Eighteenth Annual Conference, Williamsburg, VA - December 8 - 10, 1986.

“Market Power and Competition Under an Equal Access Environment”

Presented at the Sixteenth Annual Conference, “Impact of Deregulation and Market Forces on Public Utilities: The Future Role of Regulation”

Institute of Public Utilities, Michigan State University, Williamsburg, VA - December 3 - 5, 1987.

“Contestable Markets: Theory vs. Fact”

Presented at the Conference on Current Issues in Telephone Regulations: Dominance and Cost Allocation in Interexchange Markets - Center for Legal and Regulatory Studies Department of Management Science and Information Systems - Graduate School of Business, University of Texas at Austin, October 5, 1987.

“The Sources and Exercise of Market Power in the Market for Interexchange Telecommunications Services”

Presented at the Nineteenth Annual Conference - “Alternatives to Traditional Regulation: Options for Reform” - Institute of Public Utilities, Michigan State University, Williamsburg, VA, December, 1987.

“Assessing Market Power and Competition in The Telecommunications Industry: Toward an Empirical Foundation for Regulatory Reform”

Federal Communications Law Journal, Vol. 40 Num. 2, April 1988.

“A Perspective on Price Caps as a Substitute for Traditional Revenue Requirements Regulation”

Presented at the Twentieth Annual Conference - “New Regulatory Concepts, Issues and Controversies” - Institute of Public Utilities, Michigan State University, Williamsburg, VA, December, 1988.

“The Sustainability of Competition in Light of New Technologies” (with D. N. Townsend and P. D. Kravtin)

Presented at the Twentieth Annual Conference - Institute of Public Utilities Michigan State University, Williamsburg, VA, December, 1988.

“Adapting Telecom Regulation to Industry Change: Promoting Development Without Compromising Ratepayer Protection” (with S. C. Lundquist)

IEEE Communications Magazine, January, 1989.

“The Role of Cost Based Pricing of Telecommunications Services in the Age of Technology and Competition”

Presented at National Regulatory Research Institute Conference, Seattle, July 20, 1990.

“A Public Good/Private Good Framework for Identifying POTS Objectives for the Public Switched Network” (with Patricia D. Kravtin and Paul S. Keller)

Columbus, Ohio: National Regulatory Research Institute, September 1991.

“Telecommunications Regulation and Infrastructure Development: Alternative Models for the Public/Private Partnership”

Prepared for the Economic Symposium of the International Telecommunications Union Europe Telecom '92 Conference, Budapest, Hungary, October 15, 1992.

“Efficient Infrastructure Development and the Local Telephone Company's Role in Competitive Industry Environment” *Presented at the Twenty-Fourth Annual Conference, Institute of Public Utilities, Graduate School of Business, Michigan State University, “Shifting Boundaries between Regulation and Competition in Telecommunications and Energy”, Williamsburg, VA, December 1992.*

“Measurement of Telecommunications Productivity: Methods, Applications and Limitations” (with Françoise M. Clottes)

Presented at Organisation for Economic Cooperation and Development, Working Party on Telecommunication and Information Services Policies, '93 Conference “Defining Performance Indicators for Competitive Telecommunications Markets”, Paris, France, February 8-9, 1993.

“Telecommunications Investment and Economic Development: Achieving efficiency and balance among competing public policy and stakeholder interests”

Presented at the 105th Annual Convention and Regulatory Symposium, National Association of Regulatory Utility Commissioners, New York, November 18, 1993.

“The Potential for Competition in the Market for Local Telephone Services” (with David N. Townsend and Paul S. Keller)

Presented at the Organization for Economic Cooperation and Development Workshop on Telecommunication Infrastructure Competition, December 6-7, 1993.

“Market Failure in Open Telecommunications Networks: Defining the new natural monopoly,” *Utilities Policy*, Vol. 4, No. 1, January 1994.

The Enduring Local Bottleneck: Monopoly Power and the Local Exchange Carriers, (with Susan M. Gately, et al) a report prepared by ETI and Hatfield Associates, Inc. for AT&T, MCI and CompTel, February 1994.

Commercially Feasible Resale of Local Telecommunications Services: An Essential Step in the Transition to Effective Local Competition, (Susan M. Gately, et al) a report prepared by ETI for AT&T, July 1995.

“Efficient Public Investment in Telecommunications Infrastructure”

Land Economics, Vol 71, No.3, August 1995.

Funding Universal Service: Maximizing Penetration and Efficiency in a Competitive Local Service Environment, Lee L. Selwyn with Susan M. Baldwin, under the direction of Donald Shephard, A Time Warner Communications Policy White Paper, September

1995.

Stranded Investment and the New Regulatory Bargain, Lee L. Selwyn with Susan M. Baldwin, under the direction of Donald Shephard, A Time Warner Communications Policy White Paper, September 1995

“Market Failure in Open Telecommunications Networks: Defining the new natural monopoly,” in *Networks, Infrastructure, and the New Task for Regulation*, by Werner Sichel and Donal L. Alexander, eds., University of Michigan Press, 1996.

Establishing Effective Local Exchange Competition: A Recommended Approach Based Upon an Analysis of the United States Experience, Lee L. Selwyn, paper prepared for the Canadian Cable Television Association and filed as evidence in Telecom Public Notice CRTC 95-96, Local Interconnection and Network Component, January 26, 1996.

The Cost of Universal Service, A Critical Assessment of the Benchmark Cost Model, Susan M. Baldwin with Lee L. Selwyn, a report prepared by Economics and Technology, Inc. on behalf of the National Cable Television Association and submitted with Comments in FCC Docket No. CC-96-45, April 1996.

Economic Considerations in the Evaluation of Alternative Digital Television Proposals, Lee L. Selwyn (as Economic Consultant), paper prepared for the Computer Industry Coalition on Advanced Television Service, filed with comments in FCC MM Docket No. 87-268, In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, July 11, 1996.

Assessing Incumbent LEC Claims to Special Revenue Recovery Mechanisms: Revenue opportunities, market assessments, and further empirical analysis of the "Gap" between embedded and forward-looking costs, Patricia D. Kravtin and Lee L. Selwyn, In the Matter of Access Charge Reform, in CC Docket No. 96-262, January 29, 1997.

The Use of Forward-Looking Economic Cost Proxy Models, Susan M. Baldwin and Lee L. Selwyn, Economics and Technology, Inc., February 1997.

The Effect of Internet Use On The Nation's Telephone Network, Lee L. Selwyn and Joseph W. Laszlo, a report prepared for the Internet Access Coalition, July 22, 1997.

Regulatory Treatment of ILEC Operations Support Systems Costs, Lee L. Selwyn, Economics and Technology, Inc., September 1997.

The "Connecticut Experience" with Telecommunications Competition: A Case in Getting it Wrong, Lee L. Selwyn, Helen E. Golding and Susan M. Gately, Economics and Technology, Inc., February 1998.

Where Have All The Numbers Gone?: Long-term Area Code Relief Policies and the

Need for Short-term Reform, prepared by Economics and Technology, Inc. for the Ad Hoc Telecommunications Users Committee, International Communications Association, March 1998.

Broken Promises: A Review of Bell Atlantic-Pennsylvania's Performance Under Chapter 30, Lee L. Selwyn, Sonia N. Jorge and Patricia D. Kravtin, Economics and Technology, Inc., June 1998.

Building A Broadband America: The Competitive Keys to the Future of the Internet, Lee L. Selwyn, Patricia D. Kravtin and Scott A. Coleman, a report prepared for the Competitive Broadband Coalition, May 1999.

Bringing Broadband to Rural America: Investment and Innovation In the Wake of the Telecom Act, Lee L. Selwyn, Scott C. Lundquist and Scott A. Coleman, a report prepared for the Competitive Broadband Coalition, September 1999.

Dr. Selwyn has been an invited speaker at numerous seminars and conferences on telecommunications regulation and policy, including meetings and workshops sponsored by the National Telecommunications and Information Administration, the National Association of Regulatory Utility Commissioners, the U.S. General Services Administration, the Institute of Public Utilities at Michigan State University, the National Regulatory Research Institute at Ohio State University, the Harvard University Program on Information Resources Policy, the Columbia University Institute for Tele-Information, the International Communications Association, the Tele-Communications Association, the Western Conference of Public Service Commissioners, at the New England, Mid-America, Southern and Western regional PUC/PSC conferences, as well as at numerous conferences and workshops sponsored by individual regulatory agencies.